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ABSTRACT

Five essays were delivered at a conference which addressed the issues of federal financial support for public broadcasting and what constitutes appropriate programing for public television stations. The essays discussed the following issues specifically: (1) the role of public broadcasting, (2) commercial versus noncommercial programing, (3) meeting community needs, (4) censorship and governmental regulation, (5) alternative plans for financial support, (6) costs, and (7) broadcast rights. The text includes an overview of the entire conference as well as the essays. (EMH)

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Series on Communications

Public Television:

Toward Higher Ground

Report and Papers from the Aspen Institute Conference on Public Broadcasting

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INTRODUCTION

DOUGLASS CATER

The Aspen Insitute Program on Communications and Society is concerned about the fate of public broadcasting in America. During the growth stages of this enterprise, our purpose has been to keep informed, involved, and yet not beholden. We have charted a clear if difficult role to sponsor reasoned inquiry, and to convene in a non-adversary atmosphere those who are committed to public broadcasting's future.

Since 1972 the Program has sponsored a series of meetings to take a hard look at the problems and prospects of public broadcasting. The early conferences examined issues of financing and organizational structure needed to ensure the system's independence and viability. Our latest focused on problems of creative programming, along with related issues.

The study papers and accompanying report from this Aspen Conference point to two essentials if public broadcasting is to move toward higher ground.

- Long-range federal funding is the single most important step to guarantee independence and to nurture creativity for the system. Nearly eight years have passed since the Public Broadcasting Act was signed into law, yet at this writing Congress still struggles with this issue.

- As CPB Chairman Robert Benjamin stated at the conference: "The priority today has to be programming; it's high time we got to it." Good programming for television, commerical or public, needs time, venture funding, and the constant willingness to risk mistakes.

While these papers concentrate on problems, it should also be noted that public broadcasting has made significant progress since the time of the Carnegie Report in 1967. Yet major challenges lie ahead. While the future of public broadcasting is not a subject which seizes the popular imagination, less momentous causes have been advanced by enlightened inquiry among groups of purposeful citizens. We hope this publication will further that purpose.

Douglass Cater is Director of the Aspen Institute Program on Communications and Society.

A CRISIS OF IDENTITY: WHAT IS PUBLIC BROADCASTING?

ANNE W. BRANSCOMB

Several recent developments cloud the future of public broadcasters, most of whom operate on channels reserved for noncommercial educational use.[1] The most significant of these developments is the Federal Communications Commission's decision not to renew the licenses of nine educational stations operated by the Alabama Educational Television Commission[2] and the assignment of the new FCC Commissioner and former law professor Glenn Robinson to a special responsibility for noncommercial stations.

This "special" attention will certainly precipitate much soul-searching among public broadcasters and their regulators concerning the nature of public broadcasting and its development in the future. During this crisis of identity, many questions will arise: What is public broadcasting? What is the justification for reserved channels? What does a noncommercial service really mean? How are noncommercial educational licensees to ascertain and serve public needs, interests and programming preferences? Who is responsible for what? Do "public stations" have higher or lower standards of responsibility with respect to political and other public affairs programming? How are these various responsibilities and needs to be funded? Who is to decide what?

I. What Is Alternative Broadcasting?

Part of the problem is that nobody really knows the meaning of the words "public broadcasting." Policymakers deliberately decline to define the term very explicitly for fear of opening the Pandora's box of programming control, which is fraught with First Amendment concerns and connotations. The term "public broadcasting" does not appear in the early legislative history of the Communications Act of 1934. Indeed, all licensees of broadcasting facilities are deemed to be "public trustees" operating their stations "in the public interest."

Initially there were no broadcast channels reserved for special purposes, although both educational and religious interests fought for this concept. At the time, it was not yet evident that reserved channels might be desirable—that the broadcasting industry would quickly develop into a vehicle for delivering a mass, consuming public to national advertisers. In addition, during the early days of radio, many educational entities obtained licenses but then failed to develop them for their own purposes. As a result, most of these licenses were transferred to profit-seeking entities, and it became necessary once again to lobby for the reservation of "public" channels when the new broadcast services became available.

Despite public broadcasting's eventual success in reaching—if not in actually capturing—the available audience,[3] the FCC has never really interpreted the meaning of "noncommercial educational" broadcast services. The regulations remain quite ambiguous. For example, Section 73.503, governing the licensing of the reserved FM channels, reads in part as follows:

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[1] Notable exceptions are WNYC–TV and WNET–TV in New York. There are eight other television stations operating on commercial channels, as well as sixteen FM and 30 AM licensees operating noncommercial educational programs on nonreserved channels.

[2] New York Times, Sept. 20, 1974, p. 1; Broadcasting, Sept. 23, 1974, p. 50.

[3] In 1941, the FCC set aside five FM channels for noncommercial educational use (see 5 Fed. Reg. 2680, 1940), and in

(footnote continued, pg. 2)

(a) "A noncommercial educational FM broadcast station will be licensed to a nonprofit educational organization and upon showing that the station will be used for the advancement of an educational program . . .

(d) "Each station shall furnish a nonprofit and noncommercial broadcast service . . ."

Similarly, Section 73.621, governing the licensing of television channels, reads:

(a) ". . . noncommercial educational broadcast stations will be licensed only to nonprofit educational organizations upon showing that the proposed stations will be used primarily to serve the educational needs of the community; for the advancement of educational programs; and to furnish a nonprofit and noncommercial television broadcast service . . .

(c) ". . . noncommercial educational television broadcast stations may transmit educational, cultural and entertainment programs, and programs designed for schools and school systems in connection with regular school courses . . ."

Although it is clear that the public channels would never have been reserved had it not been for an overriding concern among commissioners that television be used for "educational purposes," it is, nonetheless, also clear that something more than strictly educational and instructional programming was contemplated. Commissioner Hennock, who was the patron saint of educational broadcasters, spoke of "an unprecedented opportunity for education, both formal and informal," and suggested that educational stations "supply a beneficial complement to commercial telecasting. Providing for greater diversity in television programming, they will be particularly attractive to the many specialized and minority interests in the community, cultural as well as educational, which tend to be by-passed by commercial broadcasters speaking in terms of mass audiences."[4]

With the Public Broadcasting Act of 1967, which was derived from recommendations made by the Carnegie Commission, the purposes of educational television were delineated only by a reference to Carnegie deliberations. The Carnegie Commission Report spoke of the opportunity for "public television" to:

(1) "provide a voice for groups in the community that may otherwise be unheard,"
(2) "help us see America whole, in all its diversity,"
(3) "increase our understanding of the world,"
(4) "open a wide door to greater expression and cultural richness for creative individuals and important audiences,"
(5) "seek out able people whose talents might otherwise not be known and shared,"
(6) "explore new dimensions of artistic performance not ordinarily available to our nation's audiences,"
(7) "carry the best of knowledge and wisdom directly into the home."[5]

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*3 (Cont.)*1947, 20 channels were made available (see 12 Fed. Reg. 1369, 1947). Today there are 705 educational FM stations on the air—about 10 percent of the total of all radio allocations, with 793 authorized (see Broadcasting, Oct. 7, 1974, p. 74). With the onset of television in 1952, the FCC reserved 242 television assignments (80 UHF and 162 VHF) for noncommercial educational use (see 41 FCC 148, 1952). This represented about 12 percent of the total video allocations at that time. There are currently 246 licensed television stations operating on reserved channels, with a total of 252 authorized. These 246 stations represent 25 percent of the total of all authorized and operating television stations. Public television presently reaches a potential audience of 84 percent of the nation's homes (public radio is in range for about 60 percent of the audience).

[4] 41 FCC 148 at 591 (1952).

[5] Public Television, 92-94 (1967).

In short, it is apparent that the purpose of the Public Broadcasting Act was to provide an alternative programming service to what was readily available on commercial channels. However, the language of the act remained less than helpful in defining the content of "public broadcasting." It merely refers to the legal words used by the FCC, "noncommercial educational radio and television broadcasting" and to stations which "under the rules and regulations of the FCC are licensed or eligible to be licensed and which are owned and operated by a public agency or a nonprofit private foundation, corporation or association." Only the term "nonprofit" is truly explicit. (The FCC case history also makes it abundantly clear that nonprofit agencies may not operate broadcasting facilities on reserved channels for a profit-making purpose.)

In sum, it is generally understood that this alternative broadcast service was to be complementary to commercial programming,[6] but it is not clear who is to decide what is complementary. What exists today as public broadcasting has had substantial support in its development from commercial broadcasters, both at a local and at a national level. This assistance, which was fiscal as well as volunteered time and free equipment (many transmitters were given to these educational stations by commercial licensees), was provided for a number of reasons, certainly some of them eleemosynary. However, some broadcasters surely assumed that there would be less pressure upon them because of the existence of the local publicly owned stations.[7] To the extent that the public broadcasters begin to develop programming which is considered by commercial broadcasters to be competitive to their programming, there will certainly be increased animosity from the commercial representatives, and monitoring of the noncommercial programming will result.

There is already evidence that public broadcasters are embarked on a collision course with commercial broadcasting. In September 1972, WGBH–TV captured a surprisingly substantial percentage of the audience in the Boston market for coverage of the Canadian-Russian hockey finals. Storer Broadcasting had also bid for coverage of the matches on WSBK–TV, which it has cultivated as the "hockey station" in the market. It is understandable, then, that Storer sought clarification from the FCC about whether this was the kind of programming intended to be carried on reserved channels. The basic thrust of Storer's argument was (a) the hockey matches did not provide programming otherwise unavailable in that market; (b) the cost was underwritten by commercial sponsors which were regular purchasers of WSBK–TV air time; (c) extensive newspaper advertising was used to promote the WGBH–TV coverage, with substantial credits to the underwriters; (d) the programs carried promotional interruptions and fund-raising solicitations during the intervals, and these "commercials" were considerably in excess of that which would be permitted on commercial stations for advertising interruptions. Such programs as *The Way It Was,* which is a recap of outstanding sporting events during the last few years, and *A Family At War,* which, significantly, was produced for a commercial television network in Great Britain, also begin to infringe upon areas thought by commercial broadcasters to be their natural domain.

Certainly producers and performers programming the reserved channels desire the same evidence of success as those producing on commercial channels—a large and appreciative audience. However, to the extent that public broadcasters move in the direction of attracting a mass audience, they will incur the wrath not only of the commercial broadcasters but also of another significant political force in the community, the minority groups whose taste for special-interest programming is not being satisfied by commercial broadcasting. As a result, the FCC finds both groups[8] knocking at its door for the kind of decision making which the commission has assiduously avoided in the past with its traditional stance of leaving the "educators" alone and regulating by the "raised eyebrow." Pressure is certain to increase for a clear definition of the concept of alternative programming and for answers to two fundamental questions: Is the alternative programming requirement enforceable? If so, by whom?

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[6] In its membership solicitations, WNET–TV in New York promises to provide programming not available elsewhere.

[7] Such an assumption would be understandable, even though the FCC's decision to reserve channels for educational purposes explicitly stated that it intended no diminution of responsibility among commercial licensees for educational and public affairs programming.

II. What Is Noncommercial?

The FCC has addressed itself to the definition of "educational" and has determined that licensees on the reserved channels need not necessarily be institutions dedicated to formal educational purposes.[9] However, very little case law exists on what the term "noncommercial" means, and this is an area fraught with potential difficulties as the "public broadcasters" seek financing from both private industry and the general public. It is clear that overall programming must not operate at a profit and that the programming may not include any explicit advertising messages. However, substantial inroads toward commercialism have been made in the attribution of support from commercial sources, in the solicitation of funds on the air for the support of the station, and in the carriage of nostalgia programming containing commercial announcements.

Credits to commercial sponsors. Some time ago the best minds in the communications bar gathered to debate whether or not the Mobil Oil Corporation could use its logo in public television underwriting identification with the image of gasoline sloshing through the center of the red "o." It was decided that PBS would be unwise to permit this product identification which might attract the concern of the FCC.

With all of the FCC staff members who boast of having no television sets and their apparent inability to monitor programs, one wonders who would have complained? Nonetheless, the rules are explicit concerning commercial credits. Section 73.621 (d) provides that persons or organizations furnishing or producing programs or providing funds for production should be identified by name only; for example, International Business Machines rather than IBM[10] and Chevrolet Division of General Motors rather than Chevrolet. Companies sharing the same or a similar name may request a waiver of the rule in order to include brief additional descriptive material, and logos have been permitted under such a waiver in order to establish the identity of the company. No mention of the product or service of a company may be made, and credits are permitted only at the beginning and end of a program unless the program lasts longer than an hour.

Although less than 10 percent of the funding for public broadcasting comes from commercial sources, the programming which is supported by commercial funding tends to be the most prestigious entertainment (*Masterpiece Theatre,* for example). It has been virtually impossible for PBS to raise money from corporate commercial sources for public affairs programming, although IBM is reported to have committed $100,000 (about 10 percent of the funding) for the new *Bill Moyers' International Report.*[11] Although PBS allegedly maintains ultimate editorial control over the programming content, the availability of funding from the corporate sources naturally determines the direction of programming choices. This means more entertainment programming and fewer informational programs of a controversial nature.

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[8] A number of petitions to deny the licenses of noncommercial educational stations are currently pending before the FCC or on appeal to the courts. The most notable include: KQED–TV, San Francisco; WETA–TV, Washington, D.C.; KNME–TV, Albuquerque; and KETC–TV, St. Louis, Missouri.

[9] At the present time, approximately one-third of the reserved television channels are licensed to state and local educational authorities, one-third to colleges or universities, and one-third to nonprofit community organizations. Half the reserved FM channels are licensed to colleges and universities, and about one-fourth each are held by school systems and nonprofit community organizations. (Figures obtained from the Educational Broadcasting Branch of the FCC.)

[10] PBS is interpreting this as requiring the full corporate name only on the audio announcement. The logo type (IBM, ARCO, or Mobil) is permitted to appear on the television screen.

Since the purposes of commercial interests on public television must necessarily be similar to those on commercial broadcasting—to wit, to obtain the largest audience possible and a positive corporate image—there is a substantial question whether or not it is in the interests of public broadcasting to expand funding from this source and to permit greater commercialization. Moreover, the manner in which other media are used to advertise the commercially supported PBS programs raises the question of whether or not the reserved channels are actually being used already for commercial purposes.

There is no regulation of the advertising support in other media. Atlantic Richfield uses the ARCO logo in its newspaper ads promoting PBS programs.[12] The Mobil Oil Corporation, in its full-page ads for *Masterpiece Theatre* and *Mobil Showcase Theatre,* actually refers to the program credits as "commercial interruptions."[13] In addition, Mobil is now using the Mobil logo, but without a commercial plug for oil, in advertising *The Way It Was* and *Upstairs, Downstairs* during the *Today* program on NBC. Exxon advertises its offerings on PBS without commercial content, but the ads are invariably in close proximity to the Exxon product commercials on the *NBC Evening News.* Aside from a desire to know how and why *NBC News* decided to carry the announcements, there also arises the interesting question of whether a commercial announcement on a commercial station for programming on a noncommercial station constitutes commercial use of a reserved channel.

Another subsidiary question is whether or not corporations should be encouraged or discouraged from funding programming related to their business. It has always been an unspoken taboo for public stations to accept programming *supplied* by corporations and related to their business or products. Commercial stations are also leery of carrying such programming. According to case law established by commercial broadcasters, such programs are deemed to be commercial matter in their entirety and are required to be logged as such. On the other hand, what institutions in society have a greater interest in programming related to their business than those in the business?

An interesting related problem is the fight Mobil has lost to obtain time on commercial networks for editorial advertising. Actually, it might better serve the public and provide a strong source of alternative programming if large corporations were encouraged to provide funding for informational programs concerning public issues related to their business interests. Since station licensees are subject to the Fairness Doctrine which requires that both sides of controversial issues be broadcast, the station would have to obtain a program expressing the other sides of the issue or require a corporation supplying funding for such informational/editorial programming to include a discussion of different sides within the given program. Public funds or foundation funds might be used to produce the "reply" programs to a controversial corporation feature.

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[11] New York Times, Dec. 5, 1974, p. 87.

[12] New York Times, Oct. 28, 1974, p. 54.

[13] Washington Post, Sat., Sept. 28, 1974, p. 27.

Solicitation of contributions. The FCC has prohibited PBS announcements of events, such as benefit performances and house tours, which are soliciting funds for other nonprofit entities. However, over-the-air solicitation of funds for the public stations is permitted to a limited extent. A popular form of money-raising for the community-owned stations has been annual auctions of consumer products and services which have been donated to the station. This practice obviously contravenes the spirit of the prohibition against commercial uses of the station, since consumer products are being shown and their donors credited over the air. However, the FCC rules have been amended to provide that credit announcements during "auction" broadcasts may identify a particular product or service but "shall not include promotion of such products or services *beyond that necessary for the specific auction purpose*" (note 4, Section 73.621).

The rules have never addressed the question of whether programming time on reserved channels should be used to solicit funds for the support of the station itself, but such solicitations appear to be generally permitted. The Ford Foundation has announced a $1.5 million grant specifically to promote an increase in viewer support of public television from its current level of 20 million dollars or approximately 10 percent of the viewing population, to 60 million dollars annually.[14] Certainly this is a laudable attempt to obtain independent funding for public television stations. However, one wonders whether this effort may create a system of audience-supported stations with goals that will vary from the purposes for which the reserved channels and public funding were originally intended by Congress.

An appeal for listener contributions militates in two directions: (1) it dictates programming content which appeals to the largest common denominator in order to increase audience response, (2) it creates an audience and subscriber group to which the station management is beholden for its financial support. The question is whether a public station should be catering to the noncontributing rather than the contributing public. One also wonders whether a station can do both without jeopardizing one or another of its obligations. Perhaps there is a genuine need for both public and subscriber-supported stations. If so, the legal constraints might well be quite different. The subscriber-supported stations might seek to provide alternative entertainment programming, whereas public stations could appropriately offer "common carrier"-type broadcast service.

Nostalgia programming containing commerical matter. Packaged "nostalgia programs," such as *Fibber McGee and Molly, Amos and Andy,* and several other favorite radio series of the 1930s, have become a popular form of entertainment on noncommercial educational FM stations. Because these programs frequently include the original commercial breaks, there has been concern that carrying these shows on reserved channels could make a mockery of the noncommerical prohibition. This would be a problem if the original commercial advertisers would begin to provide this nostalgia programming free of cost to the noncommercial stations. However, the FCC staff has made a number of informal rulings permitting the use of old commercials whenever the program concerns radio history or whenever the "old commercials are an integral part of the nostalgia appeal of the program."[15] The commercials are also acceptable if they are for products or services which are no longer available to the public. Cigarette ads may not be broadcast, regardless of age, because the FCC has no authority to waive the requirements of the Public Health Act of 1969.[16]

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[14] Broadcasting, Oct. 21, 1974, p. 36.

[15] WBJC–FM, 40 FCC.2d 936 (1973).

[16] 15 USC Section 1331 to 1338.

All of these questions concerning the definition of noncommercial programming on reserved channels bring us back to the original question concerning the nature of "public broadcasting." Should public broadcasting be seeking a mass audience? Should it seek financial support from the same sources as commercial broadcasting? Should it be permitted to rebroadcast programs previously carried on commercial channels? May educational institutions charge viewing or listening students for broadcast-related materials? May these institutions charge tuition for the classroom credits received from educational programs?

Since governmental intrusion upon programming choices is prohibited under a strict interpretation of the First Amendment, the easiest definition of "noncommercial" is either "nonprofit," which is easily defined, or "without advertising content," which is not so easily defined, or both. Any effort to define appropriate public broadcasting programming content more precisely would likely lead to much frustration and litigation.

III. How Should Public Broadcasters Ascertain Community Needs and Interests?

The basic philosophy of the Communications Act of 1934, under which both public and commercial broadcasters are licensed, is that each broadcaster is a "public trustee," serving the specific needs and interests of the community to which each is licensed. Since 1969, under the "Primer for the Ascertainment of Community Needs," commercial broadcasters have come to follow a very elaborate procedure when applying for an initial license and a renewal. There are four aspects to this "ascertainment process": (1) interviewing of community leaders by station management; (2) a general survey of the public in the geographical area served by the station; (3) a statement of needs ascertained by the two surveys; and (4) a statement of programming designed to serve those needs. For some reason—perhaps because the "educators" have been given special treatment due to their alleged poverty—the noncommercial educational licensees were never required to engage in the ascertainment process. More recently, however, two independent petitioners filed rule-making petitions asking the FCC to require the noncommercial educational licensees to ascertain community needs and interests. Consequently, a rule-making docket was set up[17] in which all of the concerned parties—CPB, PBS, numerous licensees of noncommercial educational facilities, and several public interest groups—have filed comments in the FCC proceedings stating their reasons for or against ascertainment of community needs and interests by public licensees.[18]

PBS, although admitting that some form of ascertainment by public stations would be desirable, generally opposed the new requirement. The PBS recommendation seems to be that noncommercial educational licensees be left to their own discretion to determine how they should ascertain local needs. In contrast, CPB proposes an amendment to Section 73.503 to require noncommercial educational stations to demonstrate that they would serve "demonstrated community needs within the station's primary service area which are of an educational, informational and cultural nature." Moreover, CPB concedes that the "special treatment afforded noncommercial educational broadcasting through reservation of channels and frequencies clearly warrants higher expectations of applicants seeking to achieve or maintain this special status."

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[17] Docket No. 19816.

[18] Congress has proposed legislation which would require that licensees applying for renewals ascertain "the needs, views, and interests of the residents of their service areas for the purpose of their broadcast operations." (See Section 309 (i) of H. R. 12993; H. Rep. No. 93-961, 93rd Cong.2d Sess.) No exemption is provided for noncommercial educational licensees.

The National Citizens Committee for Broadcasting (NCCB), which has served as a lobby for citizens' groups all over the country, favors a more general survey of community needs. The NCCB representatives point out that public radio and television stations are substantially insulated from large portions of their potential viewing and listening audience, in that the viewing public most greatly in need of special interest programming was least often assessed as to its needs and preferences. The reasons for this neglect, according to the NCCB, are obvious: (1) the viewing public "most in need" can seldom afford to become supporting members of a public broadcasting station and therefore do not receive the preference polls used by many of the stations; (2) very few minority-group employees are involved in the decision-making process on public stations; (3) the composition of station boards and directors tends to exclude the least affluent members of the community.

Most of the noncommercial educational licensees have not favored the pending ascertainment requirement. They argue: (1) lack of funds to obtain professional assistance in surveying citizens; (2) money for such ascertainment procedures would have to come from the already limited resources available for programming; (3) programming decisions are substantially influenced by state and local funding sources.

One major problem which has not been addressed is the relationship of the concept of alternative programming to the ascertainment requirements. As outlined by the FCC the ascertainment procedure is not directed to "programming needs." The inquiry is directed to the problems and needs and interests of the particular community to which the station is licensed in order to assist in the planning of station management concerning their role in the resolution of existing problems. Consequently most of the ascertainment proceeding is directed toward public affairs programming. If one accepts as a major responsibility of the licensees operating on reserved channels the duty to supply alternative programming to that offered by commercial licensees, then the major requirement for noncommercial educational licensees should be an appraisal of the programming offered within the market served by the licensee showing that the programs offered by the noncommercial educational broadcaster are fulfilling unmet programming needs. Only the NCCB has proposed that noncommercial educational broadcasters be encouraged to deal with programming preferences in the community.

The entire concept of alternative programming is in conflict with the basic requirement that all licensees operate as public trustees. Indeed, if the commercial licensees were meeting all of the needs of the community, then there would be no need for alternative programming. Furthermore, if a noncommercial educational licensee is "a public trustee," then these licensees should be required to ascertain the problems, needs and interests of *all* of the citizens in the community and to design this programming service to serve *all* of those ascertained needs.

Clearly, this ascertainment issue has created a focal point for questioning the basic thrust and philosophy of public broadcasting, and a number of very basic issues must now be resolved: (1) should noncommercial educational broadcasters be treated differently from commercial broadcasters? (2) should noncommercial educational broadcasters strive to ascertain the programming of commercial licensees and then demonstrate that their own offerings serve well as alternatives to the existing programs available in the market? (3) should ascertainment be related only to the "public programming" portion of the broadcast day (that directed to general audiences), or should it also include instructional programming? (4) are noncommercial educational licensees to be held to higher or lower or different standards than commercial broadcasters? (5) how shall noncommercial educational broadcasters meet the requirement of Section 396 (a) (4) of the Communications Act, as amended, "to encourage noncommercial educational radio and television broadcast programming which will be responsive to the interests of the people both in the particular localities and throughout the United States"? (6) are noncommercial educational broadcasters "public trustees"? Or pinch hitters for the inadequacies of the "public trustees"? (7) can any of these questions be answered without an integrated look at each of the specific markets? (8) can the FCC or any other publicly funded entity render a judgment which involves evaluating programming choices?

IV. What Are the Responsibilities of Public Stations for Political Broadcasting?

Traditionally, the noncommercial educational broadcasters have not aired a substantial amount of political broadcasting during campaigns. This is mainly due to a combination of circumstances: (1) Political candidates, seeking larger audiences, are more inclined to put pressure on commercial stations to make time available, and (2) Noncommercial educational broadcasters, being largely dependent upon state or local tax sources, are not anxious to bite the hands that feed them. Also, Section 315 of the Communications Act did not positively require that time be made available for political campaign purposes, but only that "equal time" be afforded where time had already been granted by a broadcaster. Therefore, no one had cause to hassle public broadcasters about whether their neglect of campaign politics was in the public interest. In any case, some public stations were providing a meritorious service covering local elections.

With the passage of the Campaign Communications Reform Act of 1971, Section 312 (a) of the Communications Act was amended to authorize the commission to revoke licenses "for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for federal elective office on behalf of his candidacy." The act also required that commercial licensees make time available at their lowest unit rate. Since noncommercial licensees had no rate card for advertising, the FCC interpreted the act as permitting a charge by public stations for production services but not for time. Commercial licensees, by contrast, were under no obligation to make free time available.[19]

Although there is nothing in the legislative history of the act that would indicate that noncommercial educational stations were intended to be exempted from this political-access requirement, neither is there any evidence that there was much consideration by Congress of the consequence of this amendment on public broadcasting. Are public licensees justifiably required to meet a "higher standard" (that is, free time) for political programming; and, if so, on what basis? Certainly, there is room for interpretation of what constitutes "reasonable access," for the carriage of political programming represents a very considerable financial drain on the public stations as well as a diversion of resources from other programming.

Virtually no use was made of the public broadcasting system by major candidates for the Presidency in 1972.[20] Since the major networks and commercial licensees have, by contrast, provided a substantial amount of time—albeit paid political broadcasting—for candidates for federal office, there remains the pressing question of whether it makes any sense to require that public stations provide substantial amounts of free time for candidates

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[19] Interestingly enough, the amount of free programming time given by the national networks to the presidential campaign in 1972 was greatly decreased from previous years. Only one hour of sustaining time was provided to candidates and their supporters on television in 1972, compared with 39 hours, 22 minutes during the famous 1960 debates, and 29 hours, 38 minutes in 1956. The comparable figures for radio are 19 hours in 1972, compared with 43 hours, 14 minutes in 1960, and 32 hours, 23 minutes in 1956. (See FCC Survey 1968, Table 4; Survey 1972, Tables 22 and 23.)

[20] The PBS program "Election '72," which was conceived by its originators as an in-depth analysis of the Presidential and

(footnote continued, pg. 10)

for federal office (the Campaign Communications Reform Act applies only to candidates for federal office). Consistent with the concept of alternative service, the public stations should meet a major *alternative* need in the area of local political campaigns. Public broadcasters can provide a unique service in airing the arguments of local candidates, who are less able to pay for commercial broadcast time and therefore more likely to respond to the invitation of public stations to appear. In addition, in 1972 there was a significant use of public broadcast time by third-party candidates, such as Dr. Benjamin Spock. This, too, is consistent with the concept of an "alternative" television service.

If one accepts the current concept of public broadcasting as the source of "alternative programming," a modification of the Campaign Communications Reform Act, in order to encourage carriage of local rather than federal elections, would seem logical. Certainly, neither state nor local entities have the authority to either prohibit or require specific subject matter on the federally licensed media. An act of the Maine legislature which prohibited educational television systems supported by state funds from being used for the purpose of promoting political candidacies or specific governmental actions, has been struck down on the basis of the supremacy clause of the Constitution.[21]

V. What Are the Parameters of Controversial-Issue Programming?

Under discretionary authority in the Communications Act of 1934, and now under the written law, the FCC has over the years developed the Fairness Doctrine to serve as a guideline to licensees in the planning of programming on "controversial issues of public importance." The doctrine has always been greatly criticized by broadcasters, and the authority of the FCC in this area was questioned but not resolved by the recent *NBC Pensions* case. The responsibility of deciding what is a controversial issue of public importance, and how much time a station or network must devote to opposing views, has been left substantially within the discretion of the licensee. The present guidelines of the Fairness Doctrine include:

(1) the responsibility for administration and interpretation of the doctrine remains with the FCC;
(2) the responsibility for its application rests upon the licensee;
(3) the Fairness Doctrine applies to the entire programming service, not to individual programs;
(4) the responsibility to evaluate controversiality is upon the licensee rather than the program supplier.

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*20 (Cont.)*Congressional campaigns, bit the dust when it stepped on the toes of politically powerful incumbents and also was perceived by commercial broadcasters as competition. Indeed, the public broadcasting community is still feeling the repercussions of this sortie into an area preempted by commercial networks. A pending public-TV funding bill in Congress would write into law for the foreseeable future a system whereby local licensee control of programming content would be perpetuated, thereby effectively foreclosing the advent of a fourth news network which might challenge the preeminence of CBS, NBC, and ABC in presidential coverage.

[21] Oddly enough, a related federal prohibition of editorializing by public television stations or of supporting political candidates (in Section 399 of the Public Broadcasting Act) has not been challenged by any of the noncommercial educational licensees, although there seems to be general agreement that the restriction is unconstitutional. Section 399 is unlikely ever to be challenged by any of the noncommercial educational licensees themselves because they are very content with a nonpartisan status. For one thing, a positive requirement to editorialize or to support political candidates would be fraught with hazards to public television's funding. Furthermore, Section 399 constituted a concession on the part of the educators engaged in lobbying for the Public Broadcasting Act. They accepted the restriction in order to subdue the fears of congressmen that the federal funds made available to CPB would be used to defeat incumbents. Finally, there is the problem of the IRS restrictions on activities of nonprofit organizations with respect to lobbying for legislation and advocacy of political candidacies. Anyone undertaking to litigate the constitutionality of Section 399 would probably also have to tackle Section 4945 of the IRS regulations on nonprofit licensees of broadcast facilities.

It would appear that Section 396 (g) (1) (A) was intended to insure that CPB, which is not a broadcast licensee and therefore not subject to FCC jurisdiction, would use public funds to promote programming that is consistent with the philosophy of the Fairness Doctrine. However, Section 396 (g) (1) (A) was drafted hastily as an eleventh-hour amendment, and the only thing certain about the terms "objectivity and balance" is that they apply only to programs funded by CPB. Both CPB and PBS have argued strenuously that Section 396 (g) (1) (A) means nothing more or less than the Fairness Doctrine, but it is difficult to rationalize the discrepancies in the language of the two bills. Certainly, consistency could have been easily achieved for the Public Broadcasting Act by referring back to the Communications Act Section 315 terminology.

The Communications Act, Section 315 (a) (4) clearly requires licensees to afford reasonable opportunities for the discussion of conflicting views on issues of public importance. The requirements of Section 396 (g) (1) (A) of the Public Broadcasting Act would appear to be far more stringent in terms of balancing views to cover far more subject matter. "Programs of a controversial nature" (the Communications Act) is far more inclusive than "conflicting views on issues of public importance" (the Public Broadcasting Act). Similarly, the phrase "programs or series of programs" in the Public Broadcasting amendment is ambiguous but incontrovertibly wide-ranging. It could be interpreted as demanding "objectivity and balance" within a single program, within a single title series, within all programs involving the same issue, all controversial programming, or only the entire program package for a season. There is substantial legislative history that something more than a single program was intended, but what that "something more" was intended to be remains obscure.[22]

Most communications lawyers representing public entities agree that Section 396 (g) (1) (A) is unconstitutional. However, the law is not very likely to be challenged in the near future for the very simple reason that public broadcasting is unlikely to obtain funding from public sources unless it strives to maintain an overall "fairness," "objectivity," and "balance" and to air the various views of the politically influential officials who control whatever public funds are being made available at both the national and local level. A more fundamental constitutional question is whether or not a publicly funded broadcasting entity could be challenged for more "objective and balanced" access under the First Amendment or even under the Fourteenth Amendment requiring nondiscriminatory behavior by public entities. The *CBS v. DNC* case upheld the right of commercial broadcasters to decline to carry political advertising of a controversial nature, but the majority opinion did not address the question of the obligations of a noncommercial educational licensee receiving more than 50 percent of its funds from governmental agencies (which is the financial situation of most of the noncommercial educational licensees). Justice Douglas did note, however, that such governmentally funded licensees should not be permitted to refuse the programs offered, and he specifically raised the question with respect to programming funded by CPB.[23]

Although the Section 396 (g) (1) (A) question is a non-issue in the sense that it is unlikely to generate a substantial amount of litigation in the near future, it nevertheless dramatizes the dilemma of public broadcasting in sorting out the ambiguities of its status and responsibilities.

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[22] 113 Cong. Rec. 29386 (1967).

[23] 412 U.S. 94 (1973).

VI. Which Institutions Have Regulatory Jurisdiction Over Public Broadcasting?

When the Accuracy in Media organization petitioned the FCC for an interpretation of Section 396 (g) (1) (A), the CPB filed a brief which argued that Section 398 of the Public Broadcasting Act eliminated any FCC claims of jurisdiction to interpret the Public Broadcasting Act. Section 398 provides:

> "Nothing contained in this part shall be deemed (1) to amend any other provision of, or requirement under this Act; or (2) to authorize any department agency, officer, or employee of the United States to exercise any direction, supervision, or control over educational television or radio broadcasting, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction or personnel of any educational institution, school system, or educational broadcasting station or system."

Section 398 can indeed be read to exempt noncommercial educational licensees from any control by the FCC. The law is ambiguous since it disavows any intention to amend other provisions or requirements under the act, and the act clearly establishes an intent to honor all previously established responsibilities of licensees under the original Communications Act of 1934. Nevertheless, CPB argued successfully that the FCC had had no jurisdiction over the interpretation of Section 396 (g) (1) (A), which was directed to the programming funded by the CPB itself, and the FCC therefore declined to exercise any jurisdiction or to define the meaning of the "objectivity and balance" phrase.

The Accuracy in Media opinion by the FCC dramatizes the current confusion concerning the regulatory authority and institutional responsibility of the various agencies associated with public broadcasting. The question of who has the power to interpret the "strict adherence to objectivity and balance" clause in the CPB enabling act represents merely the tip of the iceberg. There is a much deeper jurisdictional dispute brewing between the CPB and PBS, which CPB spawned under authority granted in the 1967 act. This dispute, which has erupted into public view during the debate on the long-range funding bill in Congress, concerns the amount of federal funding that will be directly available to the stations. Currently, the share of the licensees ranges between 30 and 50 percent, with 50 percent proposed under the pending bill. The stations are lobbying for an increase to 70 or 75 percent.[24]

The stations' request for the greater portion of federal funds is a result of their decision that, by 1976, PBS and the member stations would take full responsibility for funding the Station Program Cooperative (SPC). The cooperative, a recent plan which provides for the selection of national programming by ballot of the licensees, is currently financed by grants from the CPB and the Ford Foundation as well as by station contributions. However, if the bulk of federal funds are to be transferred directly to the stations, the authority of the CPB would be greatly diminished. Naturally, this possibility disturbs the delicate balance of power achieved between the CPB and PBS by the "partnership" agreement reached two years ago.

Other than Congress and the President, there are five major entities that retain substantial fiscal and policy control in decisions concerning public broadcasting. These five are:

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[24] *New York Times*, Nov. 2, 1974, p. 58.

(1) *The broadcast licensees.* There are approximately 246 stations licensed to 155 entities.[25] The various entities represent diverse forms of ownership including about 13 percent licensed to public school systems; 29 percent licensed to colleges and universities; 29 percent licensed to state organizations (including substantial educational television networks in Alabama, Georgia, Kentucky, Maine, Nebraska, New Hampshire, North Carolina, South Carolina, and Vermont); 1 percent licensed to municipalities (where no local educational authority exists); and 3 percent representing some form of joint arrangement.[26]

(2) *The Federal Communications Commission.* All broadcasting entities receive their licenses directly from the FCC under its specific authority to license such facilities and its general authority to provide for an integrated communications system for the nation. The FCC has full administrative and rule-making authority spelled out in the Communications Act of 1934, and no other federal agency has been given any specific regulatory authority over noncommercial educational licensees. The latter are entirely the creatures of the FCC's rule-making authority, not specific congressional mandate.

(3) *The Corporation for Public Broadcasting.* The CPB is a funding agency set up under the Public Broadcasting Act of 1967 to receive funds from Congress and to dispense them to other entities to promote and develop programming sources for the noncommercial educational licensees.

(4) *The Public Broadcasting Service.* The PBS was originally set up by CPB as a program distribution and interconnection service for licensees under authority granted in Section 396(g) (1) (B). However, the Public Broadcasting Service was organized as a membership organization and, once established, became much more than a distribution or interconnection system. In effect, PBS is now equally a trade association of public licensees, representing their collective interests and acting as their spokesman. Consequently, PBS has established a separate and distinct existence from the CPB and has developed a considerable amount of political clout. This has left the CPB with little operational or administrative function other than to serve as a "pass-through" for some portion of federal funds allocated by Congress.

(5) *National Public Radio.* The NPR is a program production, distribution, and interconnection system for about 179 noncommercial educational radio stations qualified (as "full service" stations) to receive programs funded by CPB for radio broadcast. Unlike PBS, the NPR does not serve as a trade association for the radio licensees. Instead, they have organized a separate membership organization called the Association of Public Radio Stations.

The Carnegie Commission Report contemplated only a single agency to promote and develop public television. That agency was to be independent of control by Congress and other government bodies. The problem, however, is that in its efforts to insure independence of programming choice unfettered by governmental intrusion, the public broadcasting legislation set up an agency with very little operating authority.

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[25] Multiple ownership rules, which restrict the number of licenses a commercial licensee may acquire, do not apply to noncommercial educational channels. See 47C.F.R. 73.636(b) and 73.240(b).

[26] Statistics from CPB, FCC, and the National Instructional Television Center, One Week of Educational Television, No. 6, p. 13 (1970).

The lawmakers feared that an independent federal agency using federal funds might become a fourth national network outside the jurisdiction of the FCC. Thus, the CPB was prohibited from owning or operating "any television or radio broadcast station, system, or network, community antenna television system, or interconnection or program facility." There was also substantial concern that the noncommercial educational stations should maintain local autonomy and provide a local programming service. Now, if the licensees are to receive 75 percent of federal funds, as they propose, CPB will lose most of its remaining responsibility for fiscal matters. Ironically, the CPB, by spawning PBS, may have served as a dummy corporation to give birth to that which the legislation specifically prohibits the corporation from becoming itself—a fourth network.

Having fulfilled this historic function, perhaps there are those who would wish a timely demise for CPB. However, there is nothing in the legislation to prevent the CPB from spawning other program production facilities, systems of interconnection for the distribution of programs, or even networks for specific purposes. The major purpose of CPB appears to be as a "facilitator" and developer of diverse programming without operational responsibility. Consequently, it may be that the proper role of the CPB is to seek out and develop new forms of program production and distribution facilities.

For example, what would be wrong with promoting production facilities and networks for the distribution of ethnically oriented programming, or developing satellite distribution to cable television systems, or even purchasing time on commercial networks for informational programs which seek a national or mass audience?[27] A broad range of opportunities are still available to the CPB for the development of diverse programming to serve the needs and interests of the heterogeneous population of this country.

Meanwhile, programming control remains in the hands of those who control the funds—the executive branch and the Congress. Even though the act purported to set up an independent funding agency, the board of directors of that agency is appointed by the President and the funds for that agency come from the Congress. Furthermore, both the executive and legislative branches have explicitly stated an intent to exert programming control through the power of the purse strings. In explaining the presidential veto of the public broadcasting funding bill in 1972, Patrick Buchanan, a member of the White House staff, stated publicly that the bill was vetoed because persons in programs appearing on public television (i.e., Sander Vanocur, Robert McNeil, and Bill Moyers) were regarded as anti-administration.[28] Similarly, Senator Cotton, in the debate on the Public Broadcasting Act, stated that Congress could instantly correct any injustice evidenced by public broadcasting:

> "First we can make very uncomfortable, and give a very unhappy experience to, the directors of the corporation. Second, we can shut down some of their activities in the Appropriations Committee and in the appropriating process of Congress with respect to this particular network."[29]

In addition, the bill itself provides for the General Accounting Office to audit the books and records of the CPB, and the Office of Management and Budget reviews the budgetary request of the agency annually, although the CPB submits its budget with a proviso that this is done by courtesy only and not because of any legal requirement that they do so. All of these conditions collectively demonstrate the difficulty of trying to set up an independent agency which must depend upon appropriations either annually or even at five-year intervals from Congressional sources. No less an authority than a Supreme Court justice has stated that "it is difficult to see why it (CPB) is not a federal agency engaged in operating a 'press' as that word is used in the First Amendment."[30]

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[27] This would require an amendment to the Public Broadcasting Act for distribution to cable systems (which is proposed by the OTP bill) and for distribution over commercial stations. It would require larger amounts of funding as well.

[28] New York Times, May 28, 1973, p. 31.

[29] 113 Cong. Rec. 13003.

A completely independent system of public broadcasting will remain a dim and distant hope unless and until some form of insulated funding is available, such as that proposed by the Carnegie Commission. Use of "earmarked" funds set aside in trust could guarantee independence for a CPB, a PBS, individual licensees or some other new entity.

VII. Who Is To Decide?

Assuming that we will be able to find some resolution for the funding question and for the institutional responsibilities of the various agencies engaged in public broadcasting, there is a subsidiary question of what the composition of governing boards of public broadcasting agencies should be. Section 396 (c) (2) of the Public Broadcasting Act requires that members of the CPB board be selected on a representative basis but from a group of citizens with "various kinds of talent and experience appropriate to the functions and responsibilities of the corporation." This could be interpreted variously as requiring a broadly representative group or one with particular talents related to the corporation functions and to the knowledgeable selection of what is truly "alternative programming."

The current board has a substantial number of members from related media—broadcasting, program producers, cable television systems, and the movie industry. Although these members would seem to comply with the provision of 396 (c) (2), such a composition also presents a fairly substantial question of conflict of interest in the management of funds for public broadcasting. The composition of the board has also been challenged by the National Black Media Coalition, the Citizens Communications Center and the CPB Advisory Committee of National Organizations as seriously deficient in providing representation to "women, youth, and minorities" as well as broad consumer interests.

The present method of selecting the board, by Presidential appointment, also deserves serious reconsideration if insulation from political influence is to be achieved. A system of selection from nominees submitted by the governing boards of participating licensees would be preferable, if such boards were themselves representative of general community interests. However, the National Citizens Committee for Broadcasting has also challenged the makeup of these "blue-ribbon" elitist boards, which are more representative of the contributing audience than of the general community. Public broadcasters are being asked by local citizens' media groups to defend their choices not only of board members but also of their management-level employees. The Community Coalition for Community Change has filed a petition to deny the license renewal of KQED based on the lack of board representation.[31]

VIII. Reflections Upon the Future of Public Broadcasting

Public broadcasting is asking too much of itself and too little of the public. It is a whole new concept which embodies all the residual and unfulfilled hopes and promise of advertiser-supported, mass-audience broadcasting. With too much public scrutiny, it may die a-borning. Without public support, it may also come to naught. Consequently, broadcast licensees operating on reserved channels are going through a crisis of identity the resolution of which will be both painful and protracted. Some of the more pressing problems might be resolved as follows:

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[30] CBS v. DNC, 412 U.S. 94 (1973) J. Douglas dissent.

[31] BRET-25 and BRET-203.

(1) The concept of "alternative programming" is unlikely to be defined for the reason that no public agency, certainly not the FCC, will want to specify programming content. It is easier to classify types of licensees, and, once they qualify, let them make their own program decisions.

(2) There should be reconsideration of the concept of reserved channels. The courts are at the brink of a legal breakthrough in recent cases directing the FCC to scrutinize the need for both minority ownership and specialized programming services. Perhaps there are purposes other than educational and noncommercial for which channels should be reserved. Overall communications capability needs to be assessed on a market-wide and nationwide basis, not on the capability of each licensee.

(3) There should be an agonizing reappraisal of the effects of the Public Broadcasting Act of 1967. Is the Public Broadcasting Service—laudable as it may be—the be-all and end-all of the legislative purpose? Clarification of the relationship between the CPB, PBS, NPR, FCC, and licensees is necessary—the possibility of a completely independent system of public broadcasters, or community stations, exempt from supervisory control by the FCC, should be considered.

(4) CPB should carefully assess its role as a facilitator of educational noncommercial public programming and look to alternative methods it can use to increase diverse programming—as the long-range funding bill proposes—by means other than broadcast facilities. For example, nothing is happening out there with all those channels allocated to public use by cable systems.

(5) There is nothing in the Public Broadcasting Act that says that only one radio and one television system should be developed. Although the PBS might cry foul play, the act could not (and does not), under the antitrust laws, prohibit licensees from obtaining programming from alternative sources. Perhaps the greatest need is to stimulate and develop new production and interconnection facilities in order to provide a wider choice of programming to the public.

(6) The responsibilities of public broadcasters to make free time available to candidates should be clarified. It makes good sense to exempt licensees from the requirement to carry candidates for federal elective office where candidates for local elections are given time. Moreover, the meaning of "reasonable access" for candidates, whether federal or local, should be defined. Although it is not now a problem, since there is no great clamor from candidates for time, the increasing success of public broadcasters in capturing larger audiences may result in request from national candidates to preempt the most popular programming (*Upstairs, Downstairs,* for example, or *The Way It Was*). Such preemption would, of course, seriously disrupt program schedules and could disrupt their funding as well.

(7) Public broadcasters must ascertain community needs. However, the overall purpose of such ascertainment should be to assess the programming of all stations in the market and to show how the public broadcasters are meeting the unsatisfied programming needs of that particular market. This is vastly different from what is expected of commercial broadcasters. It would provide a useful yardstick by which the public might assess the performance of all stations in a market.

(8) Some soul-searching must necessarily be generated by concern about the desirability of increasing the portion of broadcast time paid for by commercial sources. Indeed, there is much room for thought on the whole definition of a noncommercial service. At a minimum, there should be some funding available for the production and purchase of quality entertainment programming which is not governed by commercial interests nor directed to mass audiences.

(9) The boards of all licensees, as well as of the CPB, should be opened to a broader spectrum of appointees. This may require an amendment to the Public Broadcasting Act of 1967. Furthermore, more careful scrutiny of what constitutes a conflict of interest should be written into the law.

In summary, the "educators" may long for the peace and quiet of anonymity; but having decided to "go public," they must now live with the consequences: much more public scrutiny, much more public clamor, much more public criticism, and conceivably, much more public influence.

PROGRAMMING: THE ILLUSORY PRIORITY

RICHARD O. MOORE

The words have been cited over and over again:

> "Noncommercial television should address itself to the ideal of excellence, not the idea of acceptability—which is what keeps commercial television from climbing the staircase. I think television should be the visual counterpart of the literary essay, should arouse our dreams, satisfy our hunger for beauty, take us on journeys, enable us to participate in events, present great drama and music, explore the sea and the sky and the woods and the hills. It should be our Lyceum, our Chautauqua, our Minsky's, and our Camelot. It should restate and clarify the social dilemma and the political pickle. Once in a while it does, and you get a quick glimpse of its potential."
>
> —E. B. White, in a letter to the Carnegie Commission on Educational Television

Mr. White's vision is broad-scale. It is also a revolutionary vision, in that it is addressed to the proper uses of television. It describes a potential service for *all* of the American people, and it implies a *primary* rather than a *supplementary* public service television system. It recognizes the importance of popular as well as more elitist programming. In short, Mr. White states the purposes of a television service as a national sociocultural instrument rather than as a corporate enterprise on behalf of stockholders. Regrettably, what is happening today in public television makes White's vision a wholly impossible dream.

Apart from the predictable and dreary disputes over "eastern liberal bias" or, if you prefer, "ideological plugola" and "elitist gossip," noncommercial television has seldom taken the subject of programming seriously. What *is* taken seriously is the issue of control and participation in the hierarchy that makes the programming decisions. However, even in these disputes, the issue is not really programming and audiences, but rather the distribution of available monies for the purposes of institutional survival. The noncommercial television establishment assumes that if only the system were financially secure, the programming generated by the system would not only be good for all of us, but good also in the sense of attracting the attention and support of the American people.

Since 1952 and the reservation of channels for noncommercial, educational use, the principal message of noncommercial television has been messianic in the promises it has made in exchange for immediate conversion. As noncommercial television approaches the first quarter century of its existence, it is still making these promises and then defaulting on delivery, while the true believers continue to battle over who is to control the priestly hierarchy. Public television has even developed its own Pharisaic class that pretends to divine the true intent of the Carnegie Commission Report and the Public Broadcasting Act of 1967 or the latest press release or memorandum from the Ford Foundation and the CPB Board of Directors. The *summa* of this new scholasticism is to be found in the intricate but wholly consistent, computer logic of the Station Program Cooperative. Noncommercial television has built a system but has failed to produce the great awakening that its adherents continue to promise.

The history of public television's domestic program production over the past 20 years reveals that the ostensible priority of good programming has been illusory. In the beginning, there was a national production agency (NET) funded by the Ford Foundation.

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NET had no production facilities and no assured access to noncommercial stations. Although the actual history of broadcasting in the United States and elsewhere in the world has been one of centralization and networking, United States broadcast law underlines the responsibility of the individual licensee, that is, the local station. As a result, the stations very quickly began to realize the power of "the switch." In other words, even though NET programs were offered "free" to the stations, the programs remained on the shelf unless the stations chose to accept and broadcast them.

A battle ensued between NET and the stations, and although the dispute was couched in the language of licensee responsibility, the real issue was not programming but money. If a program is meaningless without being broadcast, should not the first priority be economic assistance to the stations? Would it not be better if the stations were given the money to produce programs which they could then exchange with other stations? From the moment the stations voiced this argument, NET's days as an independent and primary production and distribution agency were numbered. The question of how to attract the best talent and produce programs in an optimum cost-effective manner became merely a masquerade for the real issue of station survival and system building.

The Carnegie Commission on Educational Television was a direct outgrowth of this first struggle for power and money in what was soon to be called public television. The Public Broadcasting Act of 1967 and the creation of CPB and PBS represented the reformation of educational television based on the principles of decentralization and a collective expression of choice regarding national program scheduling. The perfect theological expression of these principles is the Station Program Cooperative. The current battle between CPB, PBS, and possibly a third force represented by the larger producing stations is the same old struggle for the control and distribution of monies. The fear is the same old fear that the ghost of NET, as an independent production agency devoted primarily to *programming,* may return under a new set of initials. The one heresy that public television cannot tolerate is the emergence of a strong individual or group with the resources to generate imaginative and popular programming, free of the extraordinarily dense filtering system represented by the sum of stations.

Thus far, the Children's Television Workshop has represented a tolerable heresy, in that it began by tapping funds hitherto unavailable to most stations and then giving away a much needed and popular product. However, now that a substantial proportion of CTW's costs have been shifted to the stations—plus the fact that the organization is branching out into other than children's programming and is competing for foundation support, corporate underwriting, and CPB funds—CTW may well become the new principal heretic within a system based on decentralization, localism, and majority rule programming.

Historically, excellence in television programming has been associated with strong leadership in highly centralized organizations. Only such organizations seem capable of establishing an environment in which individual judgment and creativity can flourish. Although television programming is always the result of teamwork, the generation and execution of an outstanding program concept is usually the work of an exceptional individual. It is inevitably the quality of judgment and the creative imagination of responsible individuals which make the difference between the first and the second-rate in programming. Public television has devised a system wherein the power rests with a collection of institutions and boards as a protection against the exceptional. It is a system that guarantees the second-rate in the name of localism and system survival. Whenever the *system* sets the standard, that standard cannot be other than self-serving and merely middle-ground.

The development of new programming is the most frustrating problem faced by any broadcast system, commercial or noncommercial. There is simply no set formula for a successful program. In the majority of instances, the tendency is merely to imitate the current success. Frequently, however, a new season's success is precisely that program or series about which the broadcast executives were the most anxious and unsure.

In commercial television, this pattern can be stifling because the networks tend to imitate each other. In public television, the situation can be even more constricting; for programming decisions tend to be made either wholly on an economic basis, in order to fill out the schedule, or on the "safe" basis of striving to create new versions of last year's "standards." The idea of innovation and the breaking of new ground—not in the narrow experimental sense, but in terms of all the objectives set forth in E. B. White's statement—is not even a priority in public television. With 50 percent and possibly more of CPB's funds "passed through" directly to individual stations, the financial condition of each station becomes the determining factor in what passes for program planning and decision making in public broadcasting.

At the root of the problem is the policy throughout public broadcasting of lumping local broadcast operations and program production into the same institutional package. Among other things, this means that program production budgets must reflect the overhead factor for the whole institution. As a result, the budgets tend to be unnecessarily high (the overhead frequently approaches 40 percent of actual costs). One of the early arguments in favor of contracting with local broadcast stations to produce national programs was that it would enable stations to increase staff and facilities and to attract talented people. Basically this attitude remains dominant today, except that stations now compete with each other for production contracts as a means of maintaining existing staff and covering overhead. It is not surprising that somewhere in this shuffle programming objectives get lost!

It is a painful dilemma for which there is no simple resolution. Current policy in public broadcasting, FCC regulation, and forthcoming legislation stresses decentralization, localism, and station-based production. However, this approach is demonstrably more wasteful and, at the same time, woefully inhibiting with respect to innovation and risk-taking in programming. Public broadcasting will continue to be dominated by political rather than programming interests so long as the "integrity" of public broadcasting is identified with a system in which the collectivity of the bureaucracies, as represented by the sum of the licensees, has the controlling voice in national programming policy.

The subsidization of local operations in the name of programming is, in my view, a self-defeating policy. Granted that without this policy on the part of the Ford Foundation and CPB, the development of public broadcasting might have proceeded at a much slower pace. However, it can also be argued that if the monies spent on station development and "survival" had been invested instead in programming that was effectively competitive with commercial stations, we would be much nearer the goal of a public service television system consistent with the "ideal of excellence" described by E. B. White.

It is critical that programming resources outside of the public television establishment be tapped. It is equally critical that an absolutely first-rate national schedule be made available to all viewers within reach of a noncommercial channel. Local broadcast operations ought to be supported by the communities they serve, while national programming available to all noncommercial stations should be a separate enterprise for reasons of leadership, program quality, and cost-effective production. A clear separation should be made between audience (I prefer the word *consumer*) support for station *operations* (including some local programming) and *production* funding from CPB, the foundations, and corporate underwriting for national programming and distribution. I believe that such a system would be far more consistent with "American tradition and American goals." Finally, public television can hope to develop into a mature broadcast system only by offering a product that the U.S. television audience will watch, applaud and then support through subscriptions or contributions to their local station.

It is absurd to expect that the hard won political victory of the stations will provide a congenial atmosphere in which to reevaluate and redirect public television and its programming policies. However, unless programming becomes a real priority, unless some means is found to provide leadership based on program values rather than political power, and unless a situation is established in which the creative individual can work with the freedom spoken of in the Carnegie Report, public television will become so decentralized and politicized as to fall apart and become merely a costly luxury for a very small minority of Americans. If the vision of public television as "our Lyceum, our Chautauqua, our Minsky's, and our Camelot" is to become a reality, extraordinary leadership, comparable to that given the CCB by Lord Reith and Charles Curran, will be required to tackle the problem of program planning and production contracting.

PUBLIC TELEVISION'S STATION PROGRAM COOPERATIVE

NATAN KATZMAN

I. Background: History and Procedures

The current form of the PBS Station Program Cooperative has its roots in various proposals and antecedent organizations.[1] However, the immediate impetus for the SPC experiment was undoubtedly Hartford Gunn's article "Public Television Financing," which appeared in the *Educational Broadcasting Review* of October 1972. Hartford Gunn was President of the Public Broadcasting Service, and the *Educational Broadcasting Review* (now renamed *Public Telecommunications Review*) was close to a universal forum for the industry. Gunn's suggestions immediately stirred the already troubled waters of public television. Within six months, PBS had undergone a complete reorganization. Within a year, PBS and CPB had negotiated formal agreements on duties and responsibilities. Within 18 months, the first station program cooperative was functioning.

The "Gunn Plan"

Mr. Gunn's proposal, usually called "The Gunn Plan" or "The Market Plan," ran 26 pages and covered both theoretical background and specific details of a plan to "stimulate other and better ideas and . . . evoke comment and discussion." The article began with an analysis of the state of public television at that time. It was realistic and critical. Gunn noted the problems of last-minute federal funding "which are at odds with the creation of original quality programming." He identified CPB's involvement in program operations, the internal (i.e., within the industry) dissension over program priorities, the problem of balance between "local" and "national" needs, and the difficulties caused by external criticism from Congress and the Administration. "The result of all the dissension, criticism and debate," he wrote, "is to bring public television to almost a dead stop."

Stating his assumption that "public and instructional programming of high quality is a continuing national need," Gunn suggested an alternative that would maximize decision making at the local public television station. Two main justifications were offered: First, the plan would reduce the appearance and reality of a centralized decision making body that could be attacked for misuse of public funds. Second, the plan would offer an alternative to "insulated funding" (which might be "an impossibility or an illusion") in order to free public broadcasting from governmental pressures. The plan was called the Station Program Finance Plan—a name that never took hold—and was described in four sections of the article.

Section I presented the general concept of the plan. It discussed the need for an understandable and creditable system with well-delineated functions for various agencies. It considered the CPB role in program financing and noted that CPB decisions—either to fund or not to fund—were always open to the charge of outside influence. Gunn's introduction to this section concluded with the following summary and statement of needs:

> In sum: Confusion of the planning/evaluation and program operating roles risks both the loss of adequate system planning and evaluation and a cycle of deepening, frustrating, and unrewarding involvement in program operations by the Corporation . . .

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[1] The Eastern Educational TV Network is a cooperative venture of stations in the Northeast. They acquire and distribute programs to members over an EETN interconnection system.

> Essentially, what is needed is a strengthening of public television's primary functions of system leadership/planning/ evaluation and programming operations by establishing more clearcut and easily recognizable divisions of responsibility for these functions . . .
>
> [The] Corporation would be responsible for system leadership, planning and evaluation; and the stations for program decision making and operations.

The role of CPB in the scheme was defined. It would be responsible for policy overview. It would develop a strong planning and evaluation capability, monitor changing technology and regulatory decisions, and keep in touch with changing public needs and interests. It would provide a special service to the public broadcasting community by addressing "management, professional, and technical problems." It would " play a new and crucial role in programming" by attending to long-range needs, experimentation and innovation. The CPB programming function "would 'fill the gaps' in the program plan the stations devised" and insure a balanced national schedule. Finally, the Corporation would be put in the role of "judge/arbiter" whenever conflicts arose within the system or between the public and the system.

The local licensees were to be the system operators "in every respect," working on their own and "through their designated agencies." National production would then be the result of a consensus of all participants, rather than a decision by a small number of program planners and national agencies. Gunn proposed that "once the specter of centralist programming is removed," prospects for long-term financial support would be enhanced.

Eight "basic elements" of the plan were outlined:

1. Federal funding would be provided for the stations through CPB.
2. The funding would cover (a) general stations' activities, and (b) "the purchase and distribution of programs from nonlocal sources."
3. Enough stations would have to join together for meaningful cooperative purchases.
4. A system of safeguards would have to insure the encouragement of additional system income, a balance between local and non-local production, the protection of innovation and divergent views and minority interests, and a fair relationship between program expenditures and "the number of people that station is called upon to serve."
5. There would be sufficient initial funding to allow a fair test of the plan.
6. A capital fund would be available to help initiate the system.
7. CPB would have the means and authority to supplement and complement the basic programming system.
8. The stations would commit themselves to a two to three-year experimental period for the cooperative.

Section I closed with a reflection on risks and potential problems. One question was whether enough stations would be willing to participate; another was whether such a system might draw too much money away from national production. A third was whether "a system that depended on the concurrence of 140 or more managements might stunt creativity and innovation if an insufficient number of stations were willing to support any particularly innovative program project." And a fourth question was concerned with whether the flow of federal funds to local stations would have a "replacement effect" on local sources of funds. Gunn disclosed each of these potential problems and found no cause for pessimism if appropriate structures and incentives could be devised. The goal was to establish the local licensees "as the buffer between federal money and public television programming."

Section II discussed in detail a "possible model" for distribution of federal funds from CPB to stations. It introduced the notion of varying support based on a base grant, plus a formula involving station budget and population served. Of significant importance were the ideas (1) that payments to stations should "reward each station in proportion to the magnitude and complexity of the job it is trying to do in its community and the quality and intensity of that job," and (2) that there should be incentives for future enlargement of local nonfederal support.

Section III presented a model for the functioning of a Program Cooperative. It was brief and less detailed than the discussion of finances. This was its heart:

> Under the Station Program Finance Plan, the bulk of federal funds for programming, national as well as local, would flow to the stations according to a distribution formula administered by CPB. The stations themselves would determine what proportion of those funds each wished to allocate to local programming, and what proportion to the purchase of program services from a national cooperative.

The cooperative was to provide three levels of services. First, there would be the basic membership, which provided use of a communications system, a tape library, promotional services, station relations and voting rights in the cooperative. The second level involved the "basic cooperative program service." This deserves some note since it differs considerably from the system that was later instituted. For a fee, based on the same factors determining grants to stations, members would receive (1) "a minimum number of program hours . . . selected by the station for its use *from a pool of programs developed jointly by the stations";* [emphasis added] (2) interconnection; and (3) sufficient color tape recording equipment. Stations would not have to use any or all of these services, but the fee would give them that right. Gunn also noted that the fee "must be sufficient to provide financing for that minimal level of service which the preponderance of the stations deem necessary and appropriate for their use." The third level of service would be "optimal program services," which involved another set of fees for additional materials not included in the basic service. Of course, there also would be "bonus" programs, underwritten with outside funds and free to all members.

Details of the program service are lacking in Gunn's article. However, several points are clear from the outline. The plan included a basic package of programming for which all members would pay an appropriate fee and from which all members could pick what they wanted. There was no notion of program-by-program financing of the "basic" service—which is the system eventually implemented. Rather, it was assumed that there would be a group of programs that "the preponderance of the stations deem necessary," and these programs would be equitably paid for by everyone buying the "basic" service. Less popular programs would be provided via "additional optional program services."

Gaps existed in this description: Who would decide upon the basic program package? How would the decision be made? Other sections of the article seemed to imply that these functions would be undertaken by the stations and/or by their chosen representatives. The organizational details of the cooperative were left to the stations, but Gunn specified six elements that would have to be provided:

1. Commitment from stations for two or three years of participation.
2. A capitalization fund, including discretionary money for producing stations to provide innovation and diversity.
3. A structure that would include a national program advisory board to "aid in the development of a coherent strategy for program offerings."
4. Arrangements for multi-year project funding.
5. Surplus money to return to members, replenish the capital fund, and be distributed to producers for their discretionary use.
6. Provisions of full program and financial data to member stations.

Gunn summarized, "The structure must provide for effective participation of all stations in the decision making process, yet retain the flexibility needed to take advantage of topical, timely opportunities."

Section IV of the article was a detailed sample of a financing plan. Again the issues were equity and incentives. The details need not concern us.

Reorganization of Public Broadcasting

Gunn's "market plan" (from the idea of a free market for program purchases) was given significant impetus at the annual PBS meeting in the spring of 1973. By a vote of 124 to 1, PBS in effect became a station cooperative. A board composed of 25 members from boards of local licensees would provide basic governance. The Board of Governors would be assisted by a 25-member board of PTV professionals (later called the Board of Managers), which would help develop and implement policy and confirm the selection of the PBS president. Ralph Rogers, Chairman of the Board of KERA in Dallas, became PBS chairman. Hartford Gunn was reaffirmed as president. The change meant that PBS no longer *served* the stations; now PBS simply *was* the stations. The stations were members of the Public Broadcasting Service, and its staff and officers now represented the stations and served at their pleasure.

Conflicts had developed between PBS and CPB over the funding and distribution of national programs. However, after a few months of dispute, the reorganized PBS and CPB reached an effective compromise. *Variety* was able to write: "The formal pact signed between the Corporation for Public Broadcasting and the Public Broadcasting Service September 28 in Washington, D.C., by CPB prez Henry Loomis and PBS topper Hartford N. Gunn, Jr., plus the monitoring committee set up last May, should iron out differences between the two organizations, according to Loomis."

At the end of May, the PBS and CPB boards had issued a joint resolution that clarified some of the points of contention. It specifically established the size of grants to local stations under different levels of federal funding. The amounts were high enough for a program cooperative to be instituted. An agreement issued on September 28th put to rest certain disputes about specific responsibilities for the two organizations and allowed PBS to proceed with plans for a cooperative.

In December, the producing stations were asked to submit their program proposals. Then, on January 21, 1974, PBS member stations held their annual meeting in Washington. They passed a resolution that outlined principles of a "station program cooperative" for the coming year. It authorized the PBS staff to develop a plan to provide "national programming funding and [foster] autonomy and future growth of the stations."

The following principles were laid down: (a) individual station selection and financing of programming, (b) organization to provide for optimal cooperation and sharing of costs, (c) operation by PBS to fully reflect the will of the stations, and (d) encouragement of national program funding by outside organizations.

PBS staff developed plans for the Station Program Cooperative[2] and on April 6, the PBS Executive Committee adopted a resolution establishing, subject to PBS Board and station ratification, detailed procedures for the SPC. One component of the resolution emphasized that the first year of the cooperative was to be experimental and subject to review. A policies and procedures manual was then sent to all stations, the proposal was ratified, and the SPC was officially in business.

Actually, the SPC had been in business unofficially prior to the ratifying vote. The need for adequate lead time to establish a system had required certain activity throughout the winter. Program proposals had been requested in December, and they were collected in a "Preference Catalog" that was distributed in mid-February. In March, stations voted on a 1 to 5 scale for each proposal. The idea was to eliminate unwanted offerings and then to include the rest in a final "program catalog" that would be used when the SPC was put into operation.

The plan that was approved by the PBS Boards and ratified by the stations had also been thoroughly discussed in a series of "round robins" held March 19-29. Representatives of CPB and PBS (including Presidents Gunn and Loomis) toured the country for a series of meetings with managers of almost all the stations. The detailed operations of the proposed SPC were explained and discussed at these meetings and station managers were even given the opportunity to practice using the teletype voting system that had been devised. The round robin meetings indicated that the stations supported the SPC concept, so the ratifying vote of 140 to 5 was not a surprise.

SPC Procedures and Operations

The key to the proposed SPC operation was to be the DACS (Dial Access Communications System) teletype network that was already available. PBS is connected to all PTV stations by computer-controlled teletype. Every station already had a terminal that could send and receive printed messages. The system was primarily designed to transmit operational messages to stations—for example, what programs PBS would be feeding over the interconnection at what times. The basic hardware was ideal for a series of votes and for automated computer processing of the results. The DACS system provided the method for "votabs" tabulations on the various issues (including ratification of the SPC) which required a vote of PBS members. This gave PBS the idea for an automated voting system for the cooperative, and a grant from the Ford Foundation paid for the creation of the new computer software and equipment that would process the SPC data.

The SPC manual sent to each station specified the following procedures and policies:

1. All PBS policies regarding, for example, technical and content standards, distribution, and underwriting remain in force unless explicitly modified for the SPC.

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[2] This oversimplifies a fairly complex process. Representatives of PBS, CPB, and the Ford Foundation were involved in negotiations that resulted in SPC details, including the $10 million "matching fund" provided by CPB and Ford. These negotiations helped define the proposed roles of local stations, PBS committees and staff, and the CPB.

2. Proposals are to be generated in response to national needs. The proposals are evaluated by vote of the stations, and then the PBS Programming Committee, using station preferences and "other considerations," creates a Program Catalog for use in the cooperative. Concise information about various aspects of each proposal is to be included in the catalog. Producers are encouraged to provide pilot material for their proposals.

3. Program Selection Rounds of voting—using a computer-assisted process—will eliminate programs receiving no bids (or only bids from their producers).

4. Elimination Rounds will further reduce the number of offerings and allow purchase of some offerings:

   a. If 80 percent or more of the stations bid on a program, and the price to each does not go up, it is to be declared purchased. Bidding stations are then committed to purchase it.

   b. If less than 30 percent of stations bid for a program, the PBS staff are to determine whether bidding stations are willing to pay up to 80 percent of its cost among themselves. If they are not willing, the program is to be dropped.

   c. During these rounds, producers are allowed to absorb some of the program cost, lowering the price to bidders. Programming Committee consent is required, and price change data is to be communicated to all stations.

5. Purchase rounds of voting determine what other programs will be purchased through the SPC. Bids during these rounds are binding, and purchases irrevocable, so long as the price to the bidding station does not increase. Potential price increases may be eliminated by subsidy from the producer or by other underwriting, subject to the approval of the Programming Committee.

6. Stations may not use programs they do not purchase, and they may not use purchased programs if they are behind in their payment schedules.

7. Production costs—but not program content—are to be negotiated by the PBS staff and producers subject to Programming Committee review. The decisions are made prior to publication of the Program Catalog.

8. Producers are to deliver all broadcast rights to PBS. In general, these rights are to be for four releases over three years. The disposition of ancillary rights is to be determined.

9. Each station's purchase agreements are noncancellable.

10. A 5 percent surcharge is to be included in prices of programs. This is to be used for advertising and promotion. One quarter of the funds will go to create advertising material, and three-quarters to local media on a 50-50 match with local station funds.

11. Late purchases, soon after the last voting round, might apply to discount funds (see next paragraph for an explanation of these funds). Post-market purchases can be made at any time, without discount funds, at the price determined in the last purchase round.

12. The Programming Committee can activate the cooperative at any time for selection of additional programs.

13. Nonmembers may purchase programs from the SPC after paying a surcharge.

14. Pricing to individual stations is determined by a specified formula. Discount funds are to be allocated according to the same formula.

15. Financing of programs and of the cooperative itself are subject to auditing.

16. Data concerning individual station selection of programs will not be published, pending policy determination by the Programming Committee.

17. The PBS staff, subject to oversight by the Programming and Finance Committees, is responsible for the administration and operation of the cooperative under the specified rules.

Financial arrangements for the SPC had been worked out among PBS, CPB and the Ford Foundation. Under terms of the May 1973 agreement, CPB was granting $15 million directly to the stations in the form of no-strings Community Service Grants. Now, Ford agreed to grant $5.5 million and CPB $4.5 million to form a $10 million pool for "matching" or "discount" funds. This discount pool was to be used to provide a 3:1 match, up to a specified ceiling for each station, of local money used in the SPC. Thus, a 75 percent discount was applied to SPC purchases. (For every dollar spent, 75 cents came from the discount funds, 25 cents from local funds.) If every station spent at or above its limit, the total amount spent by the SPC would be $3.3 million in local "matchable" funds, $10 million in discount funds, and whatever money individual stations spent above their matching ceilings. (Total expenditures would pay for programming plus the 5 percent surcharge for advertising, and an additional 2 percent surcharge to cover financial uncertainties.) If any station spent less than all their matchable funds, the remaining discount funds would revert to Ford and CPB. Programs purchased by less than 10 percent of the stations (less than 15) were not eligible for discount funds.

The cost of programs to individual stations was to be determined by two factors: a "pricing share" and the number of other stations purchasing the same program. The pricing share was determined by a formula based 20 percent on the potential audience and 80 percent on the station operating budget. The ratio of maximum to minimum share was fixed at 15:1 (with the exception of WNET, which was given a share 20 times the lowest).

To simplify this formula a bit, each station was assigned a percent of the total price of any program. If your station had a pricing share of 0.5 percent, it meant that if all stations purchased a $100,000 program, you would have to pay $500. The second, and most critical, factor was the number of stations that wanted a given program. (In fact, the critical factor was total purchasing power, but it is simpler to consider that as equal to the number of stations.) Actual price to a station was determined by that station's pricing factor, divided by the total of the pricing factors for all purchasing stations. If only half of the stations wanted a $100,000 program, the price for your 0.5 percent share would be $1,000 (0.5% ÷ 25% = 2%) for the program.

The PBS Programming Committee had decided on the offerings to be included in the final "Program Catalog." All programs receiving sufficiently high ratings in the earlier preference poll were included in the catalog. In addition, programs with special minority interest and those with available pilot material were included even if they had received low preference ratings. A schedule analysis worksheet, which listed free programs known to be available for the next season and detailed the programming in the previous season, was sent to stations along with the program catalog. Next, the PBS interconnection provided more than a week of closed-circuit feeds of pilot material, so that the stations had the opportunity to see pieces of the proposed programs. The producers also came on screen to try to "sell" their proposals. Finally, there was a conference call in which stations could question producers about their offerings.

On May 19, the DACS system transmitted to each station the hypothetical cost for each proposal. (The hypothetical prices assumed purchases by 80 percent of the stations.) On May 22, the first round of voting was held, and there were nine more rounds in the first three weeks of June. The scheduled meeting of Program Managers was then held in Washington at the end of the month.

Everyone at the meeting was in general agreement (and a bit amazed) that the computer system had been working so well. The meetings were far more concerned with technical problems—including scheduling—than with whether people were satisfied with their SPC acquisitions. The fall schedule—or at least a preliminary list of fall programs—was presented, and then everyone went home for two further purchase rounds.

SPC Voting by Local Stations

To this point, the discussion has vaguely referred to decisions made by "stations"; but, of course, participation in the SPC was by *people*. Typically, the program manager of the local PTV station was responsible for selection of programs within the financial limits set at higher levels of station management. Program managers sat and watched much of the 15 hours of pilot material. Quite a few stations made tapes of the pilot feed. After the end of the last feed, the program manager made a list of things he wanted and things he might consider or was not sure about. In most cases, the manager definitely wanted six or seven particular programs.

Initial lists reflected a great deal of thought and some discussion within the station. Program managers have their preferences for particular types of material, and they often differ sharply in what they consider a good television program. Nor did the tastes and opinions of specific program managers inevitably reflect the particular slants of the populations they served. Some PTV decision makers are interested in changing their communities, others in reflecting their communities. Some are worldly and well-read; others depend for their information on discussions with friends and associates and the letters that arrive at the station. The safest conclusion is that initial lists of program selections were what local managers *thought* would be best for their stations within constraints of available money and need to fill air time.

The next step was to figure out how much all this might cost. With only the pricing shares available, this was a time-consuming clerical task; and many people did not choose to take the calculations very far once they had determined the total price of the programs they knew they had to buy. (Seven programs were selected by at least 75 percent of the stations in the first round, and the total price of these seven came to more than half of the limit for matching funds.)

It became easier to estimate costs when the lists of specific prices to stations came through. At that point, some program managers became painfully aware that they could not buy all they wanted. Some programs had been immediately discarded because of the pilots or the feeling that there was no need for "that kind" of program. Others were now rejected because of cost. The tough decisions were always among the marginal programs.

Most program managers had one or two favorites which they kept on the list for a while longer. Typical of these marginal "favorites" were *International Cinema, The Thin Edge, Wiseman Documentary, Soul Specials,* and *Small City Garden.* Similar offerings also became a difficult problem. For example, should the station buy *Consumer Survival Kit* or *Consumer Game? Black Journal* was well-produced but expensive and controversial. *Black Perspective On The News* was inexpensive, weekly and of uncertain quality. Program managers discussed the problem with others at the station—producers, assistants, membership people, anybody who might be interested. At least one program manager asked every black person working for the station to view and evaluate the tapes of the two black-oriented programs.

In the end, all the discussions and decisions produced a list of first-round preferences. Among many program managers, there was a definite air of excitement as they went to cast their votes in the first SPC. It was the initial trial of something new and exciting. People gathered around the teletype machine (usually in a back corner of the station). Somebody—at small stations, the program manager; at larger stations, the person who usually deals with DACS messages—sat down at the machine and dialed the PBS computer. Voting times had been staggered because the computer could only handle a limited number of simultaneous inputs. Most stations cast their first votes within a few minutes of the time they were scheduled to phone the DACS computer.

When the computer had been contacted, the terminal automatically printed "ENTER PASSWORD," and the person at the keyboard entered a predetermined code. Then the response: "ROUND 1 NOW ACTIVE—BIDDING." (The name had been changed from "selection" to "bidding" rounds.) To have "station funding statistics" printed, you had to type "YES." The computer then showed that the station had spent none of its local or matching funds and asked, "DO YOU WISH TO SELECT ANY PROGRAMS?" In answer, the appropriate catalog code numbers representing desired programs were typed into the computer.

More often than not, the first entry produced the message, "YOUR RESPONSE WAS INVALID, PLEASE CORRECT"—usually the result of a misplaced comma or some other technical error. The problem would be resolved and the voting procedure was then taken to completion in five to ten minutes. In later rounds, people became adept at operating the interactive computer system and seemed even to enjoy the procedure of adding or (later) deleting programs and calling for funding statistics and lists of purchased programs. The computer and the people worked well together.

The average station selected 21 programs in the first round. The shock came the next morning when DACS sent back a tentative bill. So many programs had received so few votes that the typical program manager was faced with a huge potential bill—several times higher than his total available discount funds. Hypothetical station expenditures of hundreds of thousands of dollars were printed out by the teletype. All seven of the programs which had received more than 75 percent of the station bids had reasonable prices—like $20,000 for a year of *Sesame Street,* or $2,500 for *Wall Street Week.* Sixteen episodes of *International Cinema,* on the other hand, might cost a bit more than 130 new hours of Big Bird and his friends. The typical program manager took a look at the results of the first round bidding and saw some obvious things to do. *Consumer Survival Kit* had been chosen by 75 stations, whereas *Consumer Game* had attracted only 16 votes. Therefore, 28 additional managers decided to bid on the second round for the former program at 20 percent of the cost of the latter. [illegible] black programs finished in a dead heat; but that made the simpler show (*Black Perspective*) even less expensive than the other. The price for *Great Dancers* or *Hollywood On Hollywood* (one teleprinter insisted on "*Hollywood On Holmywood*") came to $10[illegible] for a single 90-minute special. It was easy to decide what to drop.

Figures for the second-round voting show that the stations deleted an average of 3.55 programs from their first-round lists. The programs that were eventually purchased gained more than a vote per station in this second round, while the others fell by the wayside in great numbers. However, program managers could not continue to drop programs and still retain enough material to fill a complete season.[3] At this point, discussions began within stations—how far over the matching ceilings would they go?

Second-round voting set the trend for the other rounds. More than 50 of the 93 proposals fell below the 10 percent support level needed for matching funds. Nine proposals were dropped from the catalog.

Local program managers had bid on material that would have cost twice as much as the $13.3 million the system expected to spend with matching funds. It was clear that programs with minimal support were not likely to survive. The next three rounds were to be the "elimination" rounds, and producers began to cut prices or change the series' lengths (affecting 26 of the proposals) in an attempt to keep them alive. Such changes were permitted by published SPC procedures; but the nonproducing stations tended to be surprised by the maneuvering. They wondered where the underwriting money had been found; and they considered the price cutting "manipulative," even if it did not have much effect. Major producers phoned each other to seek support for their "must-have-in-order-to-survive" programs.

For all the jockeying, the voting after Round 2 mainly involved program managers dropping unsupported (i.e., expensive) proposals and replacing them with supported (i.e., inexpensive) proposals that had not been on their original lists of desired material. After Round 4, only 44 programs remained in the cooperative, and 16 of those were supported by less than 10 percent of the stations. NPACT had lost *Washington Connection*, although *Washington Straight Talk* survived. *The Advocates* was sinking after a modified proposal had rallied few additional votes in Round 3. WNET had worked hard to rally 23 votes for *American Chronicles* after a price cut. *U.N. Day Concert, Opera Theater, Black Journal, Animation Festival* and *Solar Energy* were still barely in the running. Everything else was either clearly going to be purchased or clearly out of the running.

Aside from the question of which of the few marginally viable programs would drop out, the major issue in the later voting rounds was the number of stations that would finally purchase each program. Program managers received DACS summaries after each vote. These revealed that prices and total committed station funds were steadily falling as more stations joined in the purchase of the successful programs. Instead of being faced with the unbelievable bills that were presented after the first few rounds, program managers began to find that they might not exceed their matching fund ceilings after all. Since many of them had already discussed the need to spend additional money, they rather readily decided that it would be possible to add one or two relatively inexpensive series without disrupting the overall station budget. This activity further lowered prices and pushed along the bandwagon.

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[3] The need for material to fill an empty schedule was a very real concern during the voting. The PBS project had severely underestimated the quantity and quality of free programs that would be available to all stations. After the close of the SPC, several important programs, such as Behind The Lines, received outside funding. Some had been rejected by the SPC. In retrospect, the problem seems to have been exaggerated.

In the end, 25 programs were declared purchased by the cooperative.[4] (The average SPC member bought 19 of them. Two-thirds of the stations used all of their matching funds and went above the ceiling for local matchable funds.[5]) Twenty-six of the stations spent at least 50 percent more than their ceiling levels. (This tended to happen when both *Black Journal* and *Animation Festival* were purchased. Less than 40 stations bought each, so they were expensive for each purchaser.)

The Conclusion of the First SPC

The decision makers have expressed relative satisfaction with the operation of the first SPC. Program managers tend to say things like, "I didn't get everything I wanted, but I think it worked pretty well."

Local diversity had to be reduced considerably as the voting proceeded. The marginal programs that distinguished one list of choices from another list all fell out of the SPC. (*Black Journal* and *Animation Festival* were the exceptions to this.) Votes in later rounds reflected the following kind of thinking:

> "What if somebody says something important on Straight Talk and we don't carry it? The other things I want are getting cheaper, so I'll pick it up." "We really owe something to the guys in [pick a major producer] so I guess we ought to buy their program now that there's some money to do it." "Well, it looks like the system is going to pick up that one. If TV Guide does something on it and we don't have it, there are going to be letters." "I don't know how we can fill a year with just this—better pick up another series just in case." "There are a few dollars left from what we expected to spend. What can I buy with them?" "Everybody else seems to want it; maybe it's not as bad as I thought."

In many cases there was perceived pressure (and, in some cases, very real pressure) for black, women's and consumer programming. The particular attributes of the programs were not as important as the fact that *Black Perspective On The News, Woman,* and *Consumer Survival Kit* were available at relatively low prices. Also, the titles of these shows would be in the schedule for the whole year, so any local pressures could be reduced.

One thing that was realized rather late in the development of the SPC was that stations were now able to seek local underwriters for SPC purchases. (Actually, when the underwriting price reflects SPC cost, plus the stations' expenses for broadcasting operations, the latter costs are often higher than the program cost.) This does not seem to have influenced voting this year; but we can probably expect future cooperatives to be affected by the expectation that particular programs can be sold locally. Many stations are currently recouping some of their local SPC funds by selling underwriting credits. ("*Consumer Survival Kit* has been brought to you thanks to a grant from the First National Bank.")

The general feeling seems to be that the first SPC was a successful experiment. Any perceived flaws are attributed to lack of sufficient funds in the system. Program managers point to the list of program titles and the total amount of money; this tends to defuse criticism about diminishing programming for minority groups and reduced public affairs material. (CPB's Advisory Council on National Organizations had expressed its concern before the voting began. Later newspaper accounts of the SPC often quoted or paraphrased NPACT fears that "investigative journalism" had been short-changed.)

The actual operation of the teletype machine and the sense of participation created when program managers could choose, add, or delete programs produced a tangible and beneficial feeling of involvement in decision making. Social psychologists have repeatedly demonstrated that active involvement with a procedure results in a favorable evaluation; and it is true that with the SPC, there was considerable satisfaction with at least the mechanics of the voting. The next section of this paper will examine the factors that influenced program selection and the nature of the programs purchased by the SPC.

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[4] See the next section of this paper for a detailed analysis of the outcome.

[5] Data from PBS document "Station Program Cooperative: Station Allocation of Funds at Conclusion of Market."

II. The Results of SPC Voting

All 152 participants in the SPC went through the series of voting rounds, and in the end, the SPC purchased 25 of the program proposals and rejected 68. *In general, the SPC tended to purchase longer series which had been on the air before and which had a relatively low price per minute of material.* In fact, one minute of the *purchased* programming cost SPC members less than a third of the price for an average minute of the rejected programs. The purchased programs had higher *total* production cost than the rejected programs, but because the purchased programs were available at a significantly lower price per minute, it seems fair to conclude that the higher total cost was a statistical artifact of the demand for more total hours.[6] The main point to be made is that SPC voters were sophisticated enough to differentiate between low-cost proposals and low-cost-*per-minute* proposals. They were interested in the latter.

During the course of the voting, the prices of 26 programs were reduced. Of these "cut rate" programs, only three were eventually purchased. And of these three (*Animation Festival, Black Journal* and *American Chronicles*), all received far fewer votes than the average purchased program. *Cutting prices during the course of the voting apparently had no general effect on the voting and the final set of purchased programs.*

Well-known programs were the most likely to be purchased. Of the 25 purchased programs, 15 had been regular national offerings prior to the advent of the SPC. The only two "raw concepts" were *Solar Energy* (an unusual case for many reasons) and *American Chronicles,* a last minute replacement for *Bill Moyers' Journal.* (Even though *Chronicles* was promoted as Moyers' replacement, it still had a hard time in the SPC—only 56 percent of the stations purchased it even when three-fourths of the production cost was underwritten.) Two other programs that had never been available on public television were purchased: *Japanese Film,* which was 96 percent underwritten, and *Animation Festival,* which cut its price and was purchased by only 23 percent of the stations. Both had offered some pilot material during the presentation of proposals. If we look at these figures for the effect of the SPC on new program production, we find that *Solar Energy* was the only entirely new project that was bought for national distribution. *Chronicles* was to be a different job for an old production team, and the film and animation series were repackaging projects for materials produced abroad. Two other new programs—*Consumer Survival Kit* and *The Romagnoli's Table*—involved national distribution of series that had already been produced for local use. In short, the SPC was extremely conservative. It purchased programs that it already knew.

Among the nine regular national programs rejected by the stations, *U.N. Day Concert, Opera Theater,* and *The Advocates* were special cases that received significant first-round support and then declined. They will be considered in detail later. *Behind the Lines, Wiseman Documentary, Washington Connection,* and *NPACT Documentaries* were *expensive* public affairs materials (high cost per minute) that could not compete with the quantity of cheap "talking-heads" available. *Eye To Eye* and *The Lenox Quartet* (the former expensive and the latter inexpensive) were simply old chestnuts that fell by the wayside. Their "cultural" content was not a strong point in the SPC, since outside underwriters were known to be funding slicker, more expensive cultural materials for the national system.

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[6] When the children's programs (many total hours and high total cost) are removed from the analysis there are no longer differences between total production costs of purchased and rejected programs. Removal of children's programs from the analysis also widens the disparity on price per minute—rejected programs would have cost four times as much per minute as purchased programs—and narrows the difference found for total hours (the difference is still large).

Among the producers of SPC proposals, the big PTV production centers offered a great deal of material and were rejected more frequently than any other group except the very smallest stations. The ten programs eventually purchased from these producers included seven that had already been national series (the exceptions were *Chronicles, The Romagnoli's Table,* and *Evening At The Symphony*). These are not a particularly innovative group of new productions from the major production centers. By way of contrast, the 30 rejected offerings from the big producers included several innovative (and expensive) proposals covering the arts, the social sciences, some unserved target groups, and "non-talking-head" public affairs. The basic problem seems to have been that these producers have more expensive ideas *and* higher production costs for similar projects. The SPC had limited funds and could not afford the kinds of new programs that were being proposed by New York, Los Angeles, Boston and Washington.

In the end, CTW, the major production centers, and various secondary producers each provided the SPC with roughly equal numbers of hours of material. This represented a fairly high rate of success for the *secondary* producers. In addition to such tried and true programs as *Book Beat, World Press, Firing Line* and *Wall Street Week,* they provided four of the relatively new programs purchased by the cooperative: *Soundstage* (contemporary music), *Japanese Film, Animation Festival* and *Consumer Survival Kit.* Philadelphia (*Black Perspective on the News*) and Buffalo (*Woman*) placed talk series with the SPC, and Rochester (*At The Top*) sold a set of contemporary music programs. The South Carolina ETV Network submitted a number of ambitious new proposals that were rejected. *Lilias Yoga* and *Solar Energy* were the only proposals accepted from very small producers.

In terms of subject matter, children's programs fared best in the SPC voting, and public affairs proposals also did quite well. More than half of the public affairs hours were purchased; and if we were to include the number of special-events hours as well, the total of programming purchased in this broadened public affairs category would probably be as high or higher than the total SPC purchased hours in the target, cultural and educative categories combined. Among all 25 purchased programs, the bulk of the SPC purchases were talk or discussion programs that received little or no outside funding. Nineteen of the 25 selected shows were prime-time material (other than children's, yoga, and cooking programs); eight of these were talk or discussion formats, and another, *NPACT Special Events,* also tended to be open-camera coverage plus more talk and discussion. Since three programs were musical performances, and two series were repackages of foreign material, that left only *five of 19 prime-time programs which were complex television productions produced specifically for public television (Consumer Survival Kit, Solar Energy, American Chronicles, Black Journal,* and *Hollywood TV Theater).* More than half of the cost of these five programs was being underwritten. Even so, few stations were willing or able to buy the limited amount of "better" material. It costs money to make and to show high quality television programs.

Eleven proposals created unexpected voting patterns. Three of these received a relatively high number of first-round votes but were not purchased. Three received relatively few initial votes and still survived. Five programs were finally purchased by 73 percent or fewer SPC members, whereas all 20 others were purchased by more than 83 percent of the stations. Data analysis provides no place for "exceptions that prove the rule"; and such a concept is alien to scientific thinking. However, some information about these 11 special cases may prove illuminating in other ways.

U.N. Day Concert received 45 first-round votes. At $430 per minute, it was not far beyond the price range in which programs were purchased. It had also been a regular PBS event in the past. But voters were not very interested in one-shot programs or more culture.

Support eroded to 20 stations prior to the first "purchase" round. Each of those 20 stations was then faced with a potential cost 7.5 times higher than it would have been if all stations were buying. Fifteen of them pulled out mainly because of the high cost, and the program was dropped. It will be underwritten and on the air this year.

The Advocates received 55 first-round votes. It was a familiar series, but had almost gone off the air a year earlier for lack of funds. Cost per minute was $710. The SPC bought seven public affairs programs, six of which cost less than $260 per minute. WGBH, faced with fading support, reduced the number of Advocates from 35 to 26, lowering the price per minute to $639. That didn't help. Twenty-three stations hung on until they had to commit their money. Then 20 pulled out and the program was dropped.

Opera Theater received 55 first-round votes. It was originally going to cost $835 per minute. However, after the second round, when support had slipped to 41 while all obvious successes were gaining votes, WNET dropped the most expensive of the operas from the series. The price per minute fell to $692, but individual stations saw no drop in the price for them, since fewer were voting for the program by then. Support continued to fall from 24 stations in Round 5 (the last "elimination round") to eight stations who were still willing to buy the program at the Round 6 price.

Then WNET committed an act of folly of incredible magnitude. The New York station guaranteed the eight remaining stations the price they would have paid if 24 stations had been buying the program. The program was declared purchased, and WNET was in the hole for 75 percent of the price of the series, even though only a handful of stations would be able to air it. In addition, SPC rules declared that programs with less than 10 percent support were not allowed to receive matching dollars. Thus, WNET had put itself in the position of underwriting a high budget, national series for very limited distribution. And other stations had been dragged into a position of putting up 100 percent of their bills.[7] When no other stations joined the debacle, all the buyers got together and agreed to let Opera Theater drop out of the SPC. (Note that underwriting for only an additional 25 percent of the production cost would have made the program available to all stations—and a minimum of 55 of them had originally wanted the program.)

American Chronicles was supposed to replace the popular (among stations) Bill Moyers' Journal and use the same production unit. It was proposed at a price of $1,500 per minute. Only 16 stations were willing to vote for that in Round 1, and when they saw how alone they were, six dropped out in the second round. WNET decided to cut the price in half, and by Round 5 there were 24 stations voting for the program. (These were mostly large stations and represented more purchasing power than a random selection of 24 stations.) It seemed likely that the program would not get far in the next round, when a vote was a commitment to buy.

WNET decided to underwrite half of the remaining price, so that per minute price was now down to $375. The program was a bargain. Stations began to vote for it, and a bandwagon effect began. However, more than 40 percent of the stations still are not getting American Chronicles, since it remains more expensive than all other public affairs series. If WNET or its backers had been willing to go the rest of the way from 75 percent to 100 percent underwriting, all PBS members could now have the program.

Animation Festival initially gathered a small group of about 20 supporters, and they hung on through several voting rounds. The per minute price began at $510, but after the second round, the series was reduced from 26 to 13 episodes (with an increase to $573 per minute). Twelve more stations joined the buyers in the last two rounds, so that the program is now available to less than a quarter of PBS members. The others have chosen to pass up unlimited rights to seven and a half hours of animation, in which the possibilities for station breaks, titles, and pledge nights are extremely valuable.

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[7] PBS decided that discount funds would be available for purchase of Opera Theater. It was reasoned that the price was set at a 24 station purchase level (thus, greater than 10 percent).

Solar Energy started with 31 votes and fell to 26 in the second round. There was no price change, and the program seemed likely to drop out. However, it had more support than any other science program, and it was only $170 per minute. Despite being produced by a small station (KNME, Albuquerque) and despite offering only three hours of material, it received increasing support prior to the purchase rounds. The bandwagon began to roll as the price to each station fell, and in the end, 112 stations bought the program. That is still difficult to explain in the context of everything else that happened during the SPC. The program seems to have been a prime beneficiary of the extra money that was released as prices for popular programs declined.

Black Journal was the only program eventually purchased by fewer stations than voted for it in the first round. All through the voting, the program attracted a unique pattern which, for the most part, seemed tied to the fortunes of Black Perspective On The News. In the first round, for example, Journal got 59 votes and Perspective got 58. It was a dead heat, even though the former cost $730 while Perspective cost only $180 per minute.

In the second round, Journal lost nine votes and Perspective gained 14. Once again, WNET decided to underwrite its program, and the SPC price for Journal was cut in half. By the purchase round, only 21 stations were still voting for Journal, while 106 had decided to buy Perspective. But when WNET guaranteed the 21 stations that their price would not go up—in effect putting up another sixth of the production cost, for a total of two-thirds—the program was declared purchased for the 21 SPC members. Over the next six rounds, 17 more stations decided to purchase Journal; and WNET was relieved of its guarantee. Even with this new group of purchasers, the program will be seen on only a quarter of the PBS stations. Black Journal, like Animation Festival, seems to have had a solid core of stations that were committed to buying it. It is not clear, though, whether it would have survived without the price cut. It also seems that the program was seen by stations as "quality" material for black viewers, but financial limitations kept the stations from coming back after Round 1.

Washington Straight Talk, Zoom, Lilias Yoga, and Hollywood TV Theater were all successful programs that started out solidly but did not develop enough of a bandwagon to generate as many purchasing stations as most of the other programs. Straight Talk cost $260 per minute, twice as much as Washington Week In Review, but much less than the other three NPACT series from Washington (which were all dramatically rejected). It seems to have been the decision that categorizes SPC members who were relatively more or less interested in having a quantity of national public affairs material; as such, it will be used by less than 55 percent of the stations.

Zoom ($700) and TV Theater ($850) were the two highest price per minute programs purchased by the SPC. Although both started with more than half of the stations voting for them, they were limited by the fact that a solid number of stations simply could not afford the price. Zoom was also hindered by the ability of stations to broadcast old episodes for free—a factor that further lowered the incentive to spend precious money for this high priced material. In the end, two-thirds of the stations bought TV Theater and 57 percent bought Zoom.

Lilias Yoga was around for stations that found a little money left (as prices for what they bought declined) and felt the need for some non-prime-time material that would not cost too much. About 60 percent of the stations purchased Lilias. Not a few of them are now trying to find a good place for it in their schedules.

Aside from these 11 special cases, there were 65 rejected proposals and 17 purchased programs. For these, the voting patterns were fairly simply and clear. The rejected programs all started with votes from less than a quarter of the stations. By the fifth round, none of them had more than five votes, and only three had more than two votes. The successful programs, on the other hand, all started with support from more than half of the stations and all finished the SPC having been purchased by more than 83 percent of all stations.

In regard to costs, the total price of the SPC-purchased programs was $12.5 million. With a 7 percent surcharge, this came to a total of more than $13.3 million. These SPC funds amounted to 31.5 percent of the money that was spent on new PTV production during the season. More than two-thirds of all funds allocated for public affairs and more than 85 percent of all public affairs air time were the result of SPC purchases. In contrast, less than a third of all production money and less than 44 percent of all production hours came through the SPC.[8]

National Production: SPC and Other Sources of Funds and Hours

	Program Type[1]				
	All Programs	**Cultural**	**Public Affairs**	**Children's**	**Other Educative**
SPC Funds	$12,460,304	$ 2,623,517	$4,012,203	$ 5,445,000	$ 379,584
Other Funds	27,065,126	12,498,305	1,922,321	6,352,000	6,292,500
TOTAL	$29,525,430	$15,121,822	$5,934,524	$11,797,000	$6,672,084
SPC as % of Total	31.5%	17.3%	67.5%	46.2%	5.7%
(SPC Hours)	(711)	(127)	(259)	(227)	(97.5)
Adjusted[2] SPC Hours	455.5	77	224.25	109	45.25
Other[3] Hours	587	255.5	38.75	173.5	119.25
TOTAL	1,042.5	322.5	263	282.5	164.5
Adjusted SPC as %	43.7%	23.2%	85.3%	38.6%	27.5%
$Per Minute SPC[4]	$ 456	$ 567	$ 298	$ 832	$ 140
$Per Minute Other	848	815	496	893[5]	879[6]
Price Ratio[7]	1.86	1.44	1.66	1.07	6.28

[1] Data and categories from PBS mimeo "National Program Funding and Program Distribution" (Gingras, 7/31/74). In some cases they do not correspond to categories elsewhere in this paper.

[2] Figures adjusted for partial support. E.g., Sesame Street received 42% support from SPC, thus 42% of its hours are credited to SPC purchase.

[3] Fully supported programs plus partial support within SPC.

[4] Does not correspond to Table 1 data, which treat underwriting differently.

[5] Villa Allegra and Carrascolendas hours removed.

[6] High value partly due to CTW health series, "Alive and Well."

[7] ($Per Minute Other) ÷ ($Per Minute SPC).

One interesting funding pattern is the relative price per minute for different types of programs. Children's programs were given the most money per minute of production, next came cultural programs, and finally public affairs. At first glance, this may seem to be a bias—and it certainly was reflected in program production characteristics and quality. However, the differences in production price per minute may be easier to understand if converted to *price per minute of air time.* Children's programs are very repeatable; cultural programs can be shown again later in the year; public affairs material is typically useless after a week passes. So if "repeatability" helps explain the different amounts spent for a minute of production, it may also help explain the differences in production quality between the various program categories.

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[8] There may be some debate over the computation of hours used here. It does not follow figures presented by PBS. However, it seems unfair to credit the SPC with all production hours of programs for which it paid only a fraction of the total cost. Thus, in my computations, hours for such programs were divided between SPC and "other funds." This also enabled computation of meaningful dollar per minute comparisons.

The 25 SPC–Purchased Programs

A. Talk/Discussion Programs (8)	Hours	Percentage of Outside Funds	Number of Purchasing Stations
World Press	26	39%	127
Wall $treet Week	26	33%	139
Washington Week in Review	26	None	144
Washington Straight Talk	19.5	None	80
Firing Line	46	None	143
Woman	19.5	None	131
Black Perspective on the News	26	None	127
Book Beat	22.5	None	143
B. Moderate Quality Productions (5)			
Romagnoli's Table	6.5	None	127
Lilias Yoga	78	57%	91
Consumer Survival Kit	13	53%	138
Solar Energy	3	25%	112
NPACT Special Events		None	129
C. Musical Programs (3)			
Evening at the Symphony	13	None	140
At The Top	4	50%	146
Soundstage	15	33%	142
D. Repackages of Foreign Material (2)			
Japanese Film	26	96%	149
Animation Festival	6.5	None	34
D. High Quality Productions (3 adult, 4 children)			
American Chronicles	13	75%	85
Black Journal	13	50%	38
Hollywood TV Theater	20	50%	102
Zoom	16	51%	87
Mr. Rogers	32.5	17%	135
Sesame Street	130	58%	145
Electric Company	65	58%	143

Another consideration is that outside agencies were relatively more likely to fund cultural, historical, scientific and educative projects, and these outside agencies were willing to fund their projects at 86 percent more per minute than the SPC. (Outside funding sources included private corporations, government agencies, CPB, foundations, and individual stations.) Children's material was the only category in which the SPC did not spend considerably less per minute than outside sources of money.

On the basis of the figures, we can conclude that the relationship between price per minute and program quality is obviously debatable. Simply compare the 21 non-children's programs in the table with the following list of *series*[9] funded outside the SPC: *The Ascent of Man, Accion Chicano, Journey to Japan, Boarding House, Boston Pops, Wolftrap, Masterpiece Theatre, Theater In America, Romantic Rebellion, The Way It Was, Interface, Arabs And Israelis, Nova, Feeling Good.* News and public affairs are barely represented in this group. On the other hand, it is doubtful that anyone familiar with programs would find the SPC group superior. (And the best of those were partially underwritten.) Also note that far more of the outside funded programs were *new ideas.*

III. The Future of SPC–Analysis and Proposals

Statistical analysis led to several clear conclusions about the SPC outcome:[10]

1. The stations bought the same old programs and rejected innovation.
2. They limited purchases to series and projects with large numbers of hours.
3. They preferred low price per minute material and rejected ambitious projects.
4. They were aware of bargains due to underwriting, but they did not follow through on these bargains as strongly as might have been expected.

In the first SPC, neither diversity nor quality were strikingly evident among the programs outside the children's block. The bright spots were music, repackaged foreign material, two old programs (*Black Journal* and *Hollywood TV Theater)*, and the two series that were significantly underwritten (*Chronicles*—75 percent and *Consumer Survival*—53 percent). The rest was the same old stuff that has brought public broadcasting its tiny audiences drawn almost entirely from the educated elite—and disproportionately from the older members of the elite. The first SPC purchased no history, almost no science (three inexpensive hours of *Solar Energy*), no dance, no comedy or satire, and no programs for target groups other than women and blacks.

Public affairs was not slighted by the SPC; there were plenty of hours, although the production quality of the purchased series offered viewers little more than people sitting in studios. The SPC rejected a lot of truly terrible proposals, but it also rejected several creative new projects. These projects might have either failed mightily or brought new dimensions to public television. As it was, if SPC material had been the only thing on public TV in 1974-75, PBS would have had a mighty boring year for all but viewers under the age of seven.

Scheduling became another major headache. PBS could not give good time slots to programs purchased by less than two-thirds of the stations. It would have been unfair to force a "hole" into that many schedules. PBS was also faced with the problem of what to do with stations that did not buy *Special Events*. If there had been impeachment hearings, for example, over 20 stations would have had the right to demand the SPC programs they bought, while everyone else would have preempted those programs. Should 144 stations have paid for *Washington Week* so that 20 could use it in a regular time slot while the rest were preempting? This scheduling problem remains and will continue to be truly difficult. However, it will allow for more local diversity and autonomy as soon as stations have enough videotape equipment to make themselves more independent of the national feed and better able to serve local needs.

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[9] If specials were included, the point might be supported even more strongly.

[10] In the course of this section, the outcome and implications of the SPC will be discussed. Because some problems are considered at length, there is the danger that this airing will be seen by some as an attack on or a threat to the system. This is not the case—the intention is merely to discover and present suggestions that may improve the system. If change in the SPC is indicated, that certainly does not diminish the accomplishments and the smooth, efficient functioning of the system's first experimental year.

Before turning to proposals for future improvement, let us consider more specifically the major difficulties of the current SPC:

Problems to be Overcome, Controversies to be Resolved

During and after the operation of the SPC, several problems appeared. Some of these have already been discussed. Some are interrelated with others. Some offer no easy solutions. Here is a brief outline of most of the major issues:

Prior to the voting:

1. *It is not clear whether producers other than PTV stations should be allowed to offer proposals to the SPC.* Despite the fact that *Sesame Street, Electric Company* and *Mister Rogers* are not produced by stations, the question of who should be allowed to place programs in the catalog becomes a major controversy. Producing stations want to keep outsiders out of the SPC. They argue that there is a need to guarantee production capability within the PTV system, and they fear that outside producers may be willing to take losses to undercut station-producers and enter the SPC market. Consuming stations (and producing stations in their role as purchasers) are interested in getting the best programs at the lowest cost, and barring outside producers limits their options. Hanging over the debate is the question of whether such a restriction would be legal, for there are clear "restraint of trade" implications.

2. *Stations were presented with only minimal information about proposals and promotional statements made by producers.* The only "objective" information about proposals was qualitative—cost, duration, length of series. Descriptive materials and pilots were prepared by the producer, who naturally had an interest in making his proposal look as good as possible. No disinterested party evaluated the quality of the proposal, its value per unit cost, the track record of the producer, the appropriate scheduling of such a program, etc. The 152 decision makers could have used better information about catalog offerings.

3. *There was insufficient information about the free, underwritten programs that would be available to all stations.* A schedule-analysis worksheet was distributed along with the program catalog. It listed all programs that were known to be underwritten for the next season. Unfortunately, a considerable number of programs were funded after the close of the voting. (These included *Zee Cooking Show, Behind The Lines,* and *U.N. Day Concert,* all of which failed in the SPC.) Thus, the coming season appeared, at the time of voting, much more empty than it proved to be. Decisions were based on "needs" that proved to be illusory. (It was also a problem that the SPC voting took place relatively late in the year for planning a TV season. Yet, the earlier the vote is taken, the less information is available about the quantity and quality of programs that will be available free to all stations.)

During the course of the voting procedures:

4. *Program proposals could not be changed by voter initiative.* Stations were faced with a take-it-or-leave-it choice and were unable to negotiate changes that might have made proposals more attractive. There is no way to tell why *The Advocates* was rejected or whether the hard core of stations that wanted *Animation Festival* preferred 26 or 13 episodes. Nor is it clear how much stations might have paid for *World Press* as a series of 52 half hours rather than a biweekly series of 26 hours. If a network had been buying programs from a group of producers, it would have bargained back and forth about prices, series length, production standards, and so forth. Outside underwriters do this,

CPS does this, food cooperatives negotiate with suppliers, and the Eastern Educational Network bargains with program producers on behalf of its member stations. But the SPC provided no way to discuss changes with producers after the catalog had been distributed, and only unofficial discussion was possible at an earlier date.

5. *It was not clear when or if changes in proposals were going to take place.* It was difficult for stations to plan purchases when they could not be sure how much material of a given type they might buy and what they would have to pay. For example, a choice between two programs might have been made on the basis of available room in a schedule, balance with other purchases, and cost. Price and length changes always upset planning; and hardly anyone knew if and when they would be made.

6. *Producer-to-station communication was difficult.* PBS procedures allowed each producer time for a closed circuit pitch for his proposals prior to the first round. But after the voting began, it was difficult for producers and stations to communicate the results of the first few rounds. Prices were cut, series lengths were changed, formats were reorganized, scheduling innovations were proposed. Michael Rice of WGBH writes: "Happily, after some sad experience, PBS wisely and responsively abandoned trying to discriminate 'promotional' from 'non-promotional' material in messages that producing stations were desperate to send out to all stations via PBS DACS (the teletype system connecting all stations) during the short periods between bidding rounds."[11] It should be noted, though, that communication via DACS was not thought out or organized. Long distance phone calls proliferated as producers tried to save their projects and obtain maximum exposure for purchased programs. Most of this was done outside SPC channels.

7. *It was difficult to form coalitions of purchasers.* Purchasing coalitions would seem to be a natural and advantageous outgrowth of this kind of system. If several stations could jointly decide to purchase a program, they could be assured that the price to each of them would fall under a predetermined ceiling. However, the data required for forming such coalitions was hard to come by. You had to know who was not buying a program. You had to contact members of a group and get tentative agreement to buy if all others agreed. You had to know how to compute price changes (and program managers are not statisticians). You had to communicate confirmation to everyone. The information and facilities were simply not available. Producers might have been able to organize groups to buy programs if they had known whom to contact and how to organize purchasing groups to create price drops. (Instead, WNET underwrote its own proposals with hard cash.) KQED was one of the few stations that managed to put together a small coalition that achieved a significant price reduction by buying *Animation Festival* in the eleventh round.

8. *Stations in overlapping markets were often unaware of purchases by other PBS members in the same community.* In several major television markets, there are two or more member stations. It would seem that local communities could be best served when these stations coordinated plans for purchases and schedules.

9. *Too much money was committed to "must have" programs, leaving too little for programs that would create a regular evening schedule.* If a station started out with the certainty that it was going to buy *Sesame Street, Electric Company, Mr. Rogers,* and *Special Events* (hard to avoid when you expected impeachment hearings), it had already committed more than half its discounted funds. This produced:

a. Voting based on the psychology of poverty. When half your money goes to three programs for children and an unknown group of specials, you tend to avoid anything else that will cost a great deal. The problem has as much to do with spending that fraction of available funds so quickly as it does with a lack of total available funds. It is psychological as well as economic.

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[11] August 2 memo from Michael Rice to PBS Programming Committee.

b. Voting to get enough material to fill an empty evening schedule. Half the money was gone and there were still no purchase for scheduled prime time. The catalog listed all the old series that were counted on. If you voted for a special or a high priced series, there would be no money left to buy Firing Line. Two proposals, Play It Again Sam, Uncle Sam and The Thin Edge, would have provided a total of 12 hours of material for almost the same total price as all eight weekly talk programs purchased by the SPC.

10. *New proposals without significant underwriting were almost ruled out.* The key factors here seem to be the proliferation of varied proposals and the relation of price to number of purchasing stations. All 152 voters behaved independently, rather than as a single entity. They were not able to use the procedure to settle on a few new programs. The bandwagon effect forced out new proposals which got low initial support, and all new proposals inevitably will get low support in early rounds unless they are significantly underwritten or extraordinarily cheap.

11. *There was no financial incentive to go above the limit set by available matching funds.* Despite all the talk about poverty, and despite the selection of relatively inexpensive programs, 99 stations spent more than their limits. Only 16 spent less than 90 percent of their discount dollars. The decision to provide a $10 million pool of matching funds at a 3:1 ratio almost predetermined the total amount spent by the SPC. It punished stations that wanted to go beyond the group of staples purchased by almost all other stations. For example, if a program manager bought all the popular material, he had to spend unmatched station funds to add *Black Journal* or *Animation Festival.* (These were expensive to each of the few purchasers, so the problem was compounded.) Conversely, he could afford to depart from normative buying patterns and stay under the matching limit only by rejecting such popular series as *Zoom* or *Mr. Rogers.* (At least in those cases, you could hope to keep the series on your station via reruns from earlier years. Future SPC's will offer more complicated options. What happens to someone who buys *Sesame Street* this year and decides not to buy it next year? What happens if *Zoom* was not purchased this year and a station wants it next year?)

12. *Stations that did not reach the limit of matching funds were encouraged to make last minute buys.* To the extent that stations were under the limit for the 3:1 match, they were wasting potential resources which could not be recovered. The following was a common attitude in later rounds, as prices settled lower: "Well, I have so many dollars left now, so I guess I can buy . . ." In some cases, this may have been a good thing, but in others it was an incentive to purchase relatively unneeded, unwanted, and/or marginally appropriate programs. For example, *Solar Energy* picked up 22 stations between Rounds 10 and 12; *American Chronicles* picked up 10 and *Yoga* got 8. No other proposal gained more than five votes. The three that got added support were available and bargains. Thus, the incentives for last minute purchases produced decisions based more on availability and price than programming needs.

13. *PBS interconnection scheduling options have been limited by the number of stations purchasing a program* as well as by more appropriate programming considerations.

14. *A program like* Special Events, *when it is not purchased by everyone, can only cause severe philosophical and legal disputes when it preempts other programs.* Should topical public affairs programs be produced if they will be preempted on all but a handful of stations? Should first runs of *Evening At Symphony* (purchased via SPC) or even

The Way It Was (not SPC) be held back from stations that do not want *Special Events*? What would be done about *America*—a series that required sequential viewing and had rights for only one weekly play—if a major event preempted its time slot?

15. *Producing stations lacked incentives to submit ambitious new projects to the SPC.* Expensive new projects were resoundingly rejected by the SPC because they would have required money for planning and development. Pilot funds would have been wasted on ambitious projects for the SPC. In the future, ambitious proposals are likely to be tailored more to the tastes of underwriters than to the needs or desires of stations. There is a clear danger that public affairs programs with high production values (and costs) will be squeezed out of public television by talk shows (SPC) and cultural programs that can be underwritten.

16. *Decisions on whether or not to produce high quality programs for public television were made outside PBS.* The directors and staff of PBS retained the ability to veto distribution of programs funded outside the SPC, but they had no ability to decide what would be underwritten or even what would be proposed to underwriters. A few stations, in their role as producers, had to decide what pilot projects to underwrite themselves, what price cuts to offer the SPC, and what programs to bring before potential underwriters. Thus, salesmanship replaced planning as the determinant of quality and diversity in public TV.

17. *The stations and their representatives were unable to implement any plan for balance between program types, service to diverse communities, and overall quality of the national service.* PBS is hamstrung by the current situation. It must take everything the SPC buys, regardless of quality, diversity or need. It will also be offered underwritten programs, most of which are superior in quality to SPC purchases. Obviously, these programs cannot be left out of the national feed. In fact, the underwritten programs will demand better scheduling, since they go to *all* of the stations and typically have larger potential audiences than SPC purchases. On the other hand, if the PBS staff identifies a gap in the schedule, it has no resources to develop material to fill that need. PBS cannot underwrite pilots, encourage the growth of production centers, or guarantee that partially underwritten programs will be bought at all or aired by any number of stations. The possibility falls to CPB and other entities willing to fully finance program production.

18. *Underwriters are discouraged from providing partial support for programs entering the SPC.* The experience of McDonald's, which paid for half of *Zoom* and found that 40 percent of the stations would not pay the additional price to carry it, should relay an unfortunate message to potential underwriters. The National Geographic Society put up two-thirds of the cost of *Pictures Of A Revolution*, a bicentennial project scheduled for the fall of 1975. Only 23 stations expressed interest in the first round, and even a price cut could not induce more than 13 stations to support the project in the third round. Thus, future underwriting will undoubtedly bypass the SPC, since those supporting program production are interested in the widest possible distribution and exposure.

19. *A great quantity of relatively low quality programming could retard the growth of quality and innovation.* Having purchased a great number of hours, program managers are committed to airing them all. Free offerings fill out the schedule, leading to the premature abandonment of the policy of repeating high quality programs. Justification for funding ambitious projects declines as the cumulative audience for single programs (i.e., viewers of any airing or repeat) declines. A full schedule without viewers means that PTV is not performing a useful function.

While summarizing the several shortcomings in the SPC selection, we must also acknowledge some important mitigating factors. *First of all, the SPC lacked the funds to* buy anything new after it had supported the basic programming that public TV needed simply to stay on the air. Stations voted for the programs they needed, and there was no money left for anything else. Second, reality dictated that more public affairs had to be purchased, because these programs are the most difficult to sell to underwriters. Third, most of the programs purchased had a solid and loyal following and could not be dropped without bringing down the wrath of angry viewers deprived of their favorites.

In other words, considering the financial limits of the SPC and the need to provide for a full year of broadcast material, the purchases were fairly diverse. They included national news review, interviews with newsmakers, review of the foreign press, documentaries on America, a program about the stock market, a program about books, materials for consumers, women's programming, black programming, material for children of various ages, contemporary classical music, feature films and animation, original dramatic productions, yoga, and cooking.

Looking toward the Future

The most meaningful way to look at the SPC is in terms of what it promises, and this view could be rather critical and pessimistic unless there are major changes. For example, it is difficult to imagine a scenario in which this type of voting procedure can ever support innovative programming. In fact, it is difficult to imagine how this type of voting procedure can do much more than sort through old programs to determine which stations want which. It is a case of the sum of the parts adding up to less than the whole. A single decision-making entity, or a deliberative body meeting face-to-face, might ponder questions of balance, diversity, innovation and quality; but the accumulated decisions of 150 entities create a statistical force toward the known, the safe, the cheap. This is compounded by the fact that when fewer stations vote for a proposal, the cost for each purchasing station goes up.

Given the limited funds and the built-in bias of the noninteractive[12] participatory system, it is difficult to see the SPC as anything more than a "meat and potatoes" purchasing agent. (And there are some who wonder just how much meat is coming along with all those potatoes.) This may not inhibit the growth of quality and diversity in public television, but it will certainly not help. First-year funding for *Sesame Street* and *Nova* could not have been drawn out of the SPC. It is not difficult to imagine the typical response at 40 or 50 stations: "Millions of dollars for this wild idea for pre-school kids . . . are you kidding? We still don't have enough color equipment, and meeting the payroll is already a day-to-day crisis!" The steep price to each interested station would increase even more, and too few stations would finally be willing to support the project.

The SPC also has a potentially dangerous effect on long-term underwriting prospects. Partial underwriting becomes a dangerous gamble. If McDonald's pays for half of *Zoom,* it wants all the youngsters in the country to have a chance to tune in. But when more than 40 percent of the stations will not carry the new *Zoom* episodes, the hamburger people are forced into a position of all or nothing. They are encouraged to *avoid* the SPC. This in turn reduces the ability of the SPC to purchase high quality programs. Partial outside underwriting was the key to much of the quality that was found in the first year's purchases. If the present system is not modified, this partial outside funding for SPC proposals is likely to decline.

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[12] The system is "noninteractive" in the sense that decision makers do not communicate with each other. The "interactive" computer system is no more than a sophisticated abacus that tallies votes quickly.

The SPC experiment included an important lesson for the producing stations as well: They learned that they cannot afford to gamble development money on the hopes of an SPC purchase. Currently, producers receive only production costs and overhead for their programs. This gives them no incentive to spend local money to develop pilots or concepts for submission. In addition, if we consider the track record of SPC, it is clearly wasteful to spend local money on program development. The voting in the first year soundly rejected all ambitious new projects. However, this rejection is not really a fair indicator of the mood of the stations. Rather, it is in large part an artifact of the voting procedure. For example, if 15 new programs are each supported by 10 stations, there would be no new programs purchased even though 150 stations all wanted something new.

What is the prognosis? Left unchanged—with limited funds, no central planning, no contingency money, poor interstation communication, low incentives for partial underwriting, a single PBS interconnection line, and a voting system that precludes innovation at the national level—the SPC is a serious threat to improved national service. Too many cheap programs could create a downward spiral: There is no room for repeats; ambitious projects can only be shown one time; the cumulative audience for a project is low (i.e., its impact is low); the justification for funding ambitious projects declines and fewer projects are funded; the audience then declines in the face of weaker material; and, finally, nothing is left but a few professors in swivel chairs talking via television to a few elderly intellectuals sipping wine in front of their sets.

Clearly, the system will not be allowed to fall to such a state; but adequate planning is preferable to emergency reactions. Program managers are already finding that they have a bit too much material on their hands, so that they have minimal space for repeats of high quality programs. Certainly, given limited audiences at any single airing and the limited production budgets, it would be most premature to abandon public TV's longstanding practice of repeating its best programs.

In the best of all worlds, the system would be quite different. A voting procedure like the current SPC mechanism might re-fund and upgrade popular programs for those stations that wanted them. A *representative* executive body, deriving its authority from the stations, would finance projects for quality, balance and innovation across the schedule. Program quality would be consistently improved, with a corresponding growth of audience and impact on society.

The most likely future for the SPC is somewhere between these two poles. The SPC will probably continue to support the solid core of successful programs from prior years (the meat and/or potatoes), and public affairs materials with low budgets (depending on total SPC funds available) will continue to predominate. Outside the cooperative, corporate underwriting will be the key to noncontroversial programs in the arts. These programs may be of high quality, but it is also fairly certain that they will be "safe." Government agencies and foundations may add funding for a significant number of "goal"-oriented programs—history, humanities, health, and minority content. And secondary producers will be able to upgrade a few local series (*Black Perspective, Consumer Survival Kit*) to national status. The major producing stations will develop outside sources for first-year funding and will look for SPC support only *after* their series have become an integral part of the public TV schedule. Unless member stations are willing to pay considerably higher dues and/or overhead charges to PBS (and neither seems likely at the moment), the Public Broadcasting Service will operate an interconnection and plan a feed schedule. It will be able to exercise a minimal veto power over unacceptable material funded outside the SPC, and it will have some power by virtue of its scheduling responsibility. But PBS will be unable to *lead*, in any sense of the word, despite its status as a station-run organization.

The vacuum of *programming* leadership in the above scenario seems a highly probable outcome of decentralized, noninteractive decision making in an under-funded system. This does not reflect upon the current political or technological aspects of public TV. Technical things seem to be functioning very smoothly at the moment, and political problems are apparently suspended for the time being. But one problem remains quite troublesome—there seems to be a vague inattention to television *programs.* Well-negotiated contracts, efficient fund raising, and nice-looking schedules sometimes overshadow the fact that TV programs and their effects are the reason public television exists.

Unless there is a drastic, and highly unlikely, change in PBS, the Corporation for Public Broadcasting will be the only entity in public broadcasting that can innovate, balance the schedule, and fund projects of high quality. In other words, after evaluating both SPC purchases and all underwritten projects, the CPB can fill the gap if it chooses. It will be faced with the opportunity to supplant talking-head with documentary public affairs material. It can be the source of funds for programs relevant to neglected minorities. It can sponsor creative video artists. It can promote dialogue, stimulate the unusual, pioneer unexplored realms of television. In short, if it chooses, the Corporation will be able to exercise programming leadership. On the other hand, CPB can sit back and safely hand over its limited funds to "worthy" projects that have negligible effects on the social, intellectual, educational and cultural fabric of America. The role of [redacted] CPB *vis-à-vis* an unmodified SPC will be crucial to the success of public television.

What is likely to happen is that an unchanged SPC will leave a vacuum (in program quality and innovation) into which CPB, corporate underwriters, and government agencies may or may not choose to enter. Producers with new ideas will learn to shun the SPC until their series have run on public television for a year or two. Ironically, the system designed to place programming decisions at the local stations will actually transfer the most important decisions outside station hands. The stations will merely ratify and continue broadcasting materials that are developed with funds provided by other corporate entities. Exxon, Mobil, federal endowments, and CPB will become far more influential than stations in determining the level of quality and diversity on public television.

It has been argued that additional money will allow the SPC to go beyond "buying programs by the pound" and enter the realm of innovative, high quality materials. More money will be needed, of course, for such improvement. However, the money is a necessary, but not a sufficient, condition. Money alone—without system modifications—will not change the statistical forces toward the purchase of well-known, noncontroversial, inexpensive series without regard for a balanced, high quality schedule. The tendency is inherent in a voting system in which consensus is achieved by counting votes rather than by interaction among voters. Additional funds in the first SPC probably would have allowed more stations to buy *Zoom, Chronicles, TV Theater, Black Journal,* and *Animation Festival.* Several of the unsuccessful offerings, such as *Advocates, Day At Night* and *Opera Theater,* might also have been funded. However, these effects would not have significantly improved the quality of this season.

Some Suggestions for Improvement

With the exception of a comparatively small percentage of SPC members, local public television stations are not capable of producing more than an hour or two a week of strictly local prime-time material. Even with two playings of everything, this amounts to no more than one-seventh of the weekly air time between 7 and 11 p.m.[13] Thus,

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[13] During the first five months of 1974, local production accounted for a bit more than 14 percent of prime-time hours.

(footnote cont. pg. 48)

local production, although it is the heart of community service, is relatively minor when compared to programming that has been prepared for wider use. Local public television schedules are diverse not because of significant amounts of strictly local material, but because of varying patterns of *acquisitions.* The national service, the PBS interconnected feed, must be seen as the heart of evening schedules, at least until hundreds of millions of dollars are available for local production budgets.

Two conclusions can be reached: First, more money is clearly needed for national program production. Thirty-nine million dollars is inadequate for a national service that seeks to provide a range of high quality material. Second, if the goal is to provide options within a national feed, *there should be a second PBS interconnection.* Both of these goals are far-fetched in the short run; but they should not be forgotten, since they may be the key to a future for the SPC.

If and when more money becomes available to public television, there will be several questions of policy that will have to be resolved in an effort to create an optimal system. The first issue concerns the proportion of programming money that should be allocated to local versus national production. Although local stations are crying for funds to use in local production, it seems that at intermediate funding levels, the stations would be better served by a stronger national service that appealed to more viewers and therefore had a greater potential effect.[14] The principle here is simply conservation of limited resources. There are too many local stations for public TV to be able to afford a local daily *Newsroom* at each one (more than half of all licensees have total operating budgets below the budget for KQED's famed local news program).

The second issue concerns the proportion of national programming funds allocated to the SPC. This is a difficult problem, because the SPC is still in a state of development. If the system seems to offer possibilities for innovation and a mechanism for balancing the schedules and filling national needs, then a higher proportion of national programming funds should go to PBS. But if the developing SPC seems to offer little incentive for quality and diversity, then a lower proportion would be in order.

In regard to a second PBS interconnection, there are three factors to be considered. The first is the need to provide service of equal quality to all time zones. The second is the problem of communities with more than one PTV station. Almost 37 percent of the population could be served by two PTV signals if all licensed stations were at full power. Such an alternate service could eventually mean PBS-1 and PBS-2 feeds similar to the lines of BBC's two-channel service.

A third consideration is the PBS goal of promoting local scheduling flexibility.[15] This desire may or may not be a good thing, but local autonomy is a philosophical principle that has widespread support. "We are not a fourth network" has become a

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*13 (Cont.)*This figure includes the creations of the major stations—WNET, WGBH, KQED—which offer more than average amounts of local material. Local origination is typically in-studio public affairs material, and there is good reason to believe that the availability of more money for local production would lead to improved quality, rather than an increased proportion of local offerings, during prime time.

[14] A pattern of growth among community-supported stations clearly depends on national programming. Attractive programs bring in viewers, viewers become station supporters, contributions from supporters provide the funds for local production.

[15] Once again the EETN provides useful background information. Members of that regional network are served by two interconnections. They receive the regular PBS feed and the EETN feed, which provides alternate air times for PBS materials along with additional acquisitions made by the regional network for use by participating stations. Scheduling flexibility is enhanced, and even now EETN members are using the second interconnection to fill "holes" created when stations have not purchased SPC offerings.

rallying call. On the other hand, there is no intrinsic need to have *Evening At Pops* shown at 8:00 Monday in one community and 8:30 Thursday in another. Local program managers can flex their muscles; but are the two communities better served by these managerial idiosyncracies? In fact, the communities and the stations are probably a bit worse off because national promotional efforts are disrupted. National promotion is a powerful and cost-efficient factor that is undermined by haphazard scheduling by local stations. In short, a second interconnection, although a long way off, might cut two ways.

Thirteen specific suggestions for SPC improvement are offered below. These suggestions are divided into four groups, presented in order from what is probably the least controversial proposal to what may be the most controversial. Virtually all of the suggestions also center around a single proposition: *The SPC system would be improved by a shift from what might be called participatory anarchy, with a limited information base, to a participatory/representative democracy, with fullest internal communication.*

Activity external to SPC operations.

1. *Arrangements should be made for negotiation and cooperation among stations with overlapping signals.* The negotiations should also involve PBS, in order to determine optimal price factors. In some cases, a single price for the whole market might be appropriate; in others, it would not. Community size and budgets must be balanced in an equation for setting price formulas for stations with overlapping signals. The current pricing formula had both WNYE and WNYC—which are completely overshadowed in New York City by VHF-WNET—paying more for a program than WETA in Washington. In fact, there were only seven licensees that had to pay more for programs than these secondary and tertiary outlets. The situation in Los Angeles and in other overlapping markets presented similar problems and there are enough of these markets to make the matter important.

The relatively poor communication between PTV stations with overlapping signals wastes a valuable resource for public broadcasting. Cooperation among them in SPC voting would lead to a greater diversity of programming in a given market. Channel 13 should tell its viewers, "Our next program is going to be . . . and if you tune to Channel 21, you can see . . ." The problem is no secret, but perhaps it will take an outside agency to convene open discussions between stations in markets with overlapping signals.

2. *CPB should use its funds to encourage development of programs needed to fill the gaps left by the SPC.* Although the Corporation now expends funds for new program development, more attention should be given to the purchase of programs to produce a *well-balanced* national schedule. An appropriate approach might be for CPB to study the SPC results and the available underwritten programs. Then the Corporation might issue requests for program proposals, specifying goals and production standards. Interested producers could then submit ideas for evaluation. This is a more active approach than the simple evaluation of unsolicited proposals. It would stimulate program production and implement a planned programming philosophy that would add needed programs to SPC purchases.

Improvement in SPC communication structures:

3. *Stations and producers should participate in a two-way evaluation process for many versions of proposals.* There were preference votes in the second SPC year, and these votes were a first step. However, in the future, a producer should be able to offer several

versions of the same basic proposal, with each version featuring different costs, different formats and different lengths. Stations could respond by voting and by explicit comments via DACS. Producers and SPC catalog editors would then know what is desired and why. Several such cycles of offer, response and counter-offer would approximate the negotiations that take place between typical funding sources and producers. The goal would be to have catalog offerings fit best with station needs and wants.

4. *PBS should evaluate each proposal in the catalog-rating quality, need, position in schedule, and value for cost.* Staff evaluations could be submitted to the PBS Programming Committee for approval and then transmitted as an integral part of the SPC catalog. Thus, a well-informed group of professionals—*employed by the stations*—would provide the information that is needed for station decisions based on more than guesswork. The procedure might also enhance the possibility of high quality new programs being purchased by the SPC. That is, favorable evaluations by the committee might produce the essential core of support in first-round voting. As things currently stand, new programs cannot succeed in the SPC unless they are either largely underwritten (and this is no guarantee) or very inexpensive.

Clearly, specific evaluations would arouse controversy and debate. However, we must assume that there are some standards of quality, value and utility that can be applied. Furthermore, a bit of controversy would be a small price to pay for keeping SPC voters well-informed and for giving some new programs a chance to be purchased.

5. *After each voting round, producers should be provided full lists of votes for and against their programs.* This is essential to the formation of coalitions to purchase programs after predetermined price drops. "Would you buy the program at half its current price?" is a fair question. By knowing whom to ask, producers might increase distribution of their programs while lowering the cost to each buyer. The criticism that too much salesmanship would be introduced by this procedure ignores the nature of any purchasing cooperative. If somebody is buying, somebody else is selling; and if the decision is in the hands of 152 voters, producers must be able to promote their wares with *each* of them.

6. *The DACS system should continue to be available for uncensored limited message length use by producers between voting rounds.* This procedure, introduced in the second SPC season, is far less expensive and far more effective than using the telephone for negotiations. PBS should be allowed to monitor all communications via DACS, so that it can issue amplifications or replies if necessary. Indeed, some of the debates and disagreements that occur in this way might profit from a public airing. The thrust of this suggestion and suggestion 5 is to open interstation communication channels, so that coalitions can be easily formed. Consensus can then be reached after interaction among voters, rather than through a series of blind votes. Once again, the goal would be to bring stations together to make decisions that reflect their interests as a group (or as a series of subgroups).

Modifications of financial arrangements:

7. *Profits from sales outside the SPC should first be used to cover underwriting by producing stations. Additional amounts should be split on a fair basis between producers and PBS.* Foreign rights and nonbroadcast uses for programs have some value. Returns should go to producers as a form of incentive for further development and as a method of inducing producer underwriting of costs to the SPC. If a producer is willing to gamble half the cost of a series on the chance that it will be sold to the BBC, the SPC price is lowered and the producer has a chance to regain his gamble. Producers should also have a share of profits above production costs. Such income would support general station

activities and strengthen production centers for further projects.

8. *The ratio of matching funds to local funds should be reduced.* This change would draw more local money into the system. Because so many stations exceeded their matching limits this year it would appear that the high matching ratio held down local contributions and therefore reduced the total pool of money available to the SPC. (Ten million dollars provided for a 2:1 match might have produced $15 million, while a 2½:1 match might have produced $14 million.)

9. *After the close of voting, excess funds in the pool of matching funds should be proportionately distributed to stations that exceeded their limits.* The matching ratio would not be predictable for this rebate. Even so, stations would be encouraged to go beyond their limits to buy better and more diverse programs. Since there would be no assurance that any matching money would be left, stations would have to commit their own funds; but even a potential discount might draw more local money into national programming. This approach would reward stations that were willing to dig deeper into their coffers to finance high quality programming and a more diverse schedule.

Creation of a basic program service funded by member stations:

10. *PBS should arrange for funding of* Special Events *coverage with money from members, from matching funds, and from outside underwriting.* Special Events *would be provided to all member stations, and funding would be outside the voting procedures.* (Such a procedure could only be adopted with full agreement of the PBS Boards and Committees and an overwhelming ratification by the stations.) Unpredictable preemptions must be available to all stations. If events are important enough to be broadcast, they are important enough to be broadcast by everyone. A few stations (almost all of them in overlapping or noninterconnected markets) would have to take a service they did not want to buy during SPC's first year. However, the costs to this very small number of stations (which would be forced to duplicate a service already provided to their communities or to find local alternative materials) would be more than offset by gains and savings for the overall national system. Preempted material can always be held for later airings, sequential series (e.g., *America* or *Masterpiece Theatre)* could retain their order, and regular public affairs series might skip a week of production, thus saving some money for the system.

11. *PBS should arrange for funding of a small group of "must have" programs (such as* Sesame Street *and* Electric Company*) with money from members, from matching funds and from outside underwriting. These programs would be provided to all member stations, and funding would be outside SPC voting procedures.* This proposal is similar to that for the provision of *Special Events,* but it is suggested for different reasons (all of which also apply to *Special Events* funding). SPC voting would be more of a decision making procedure if the bulk of available funds were not taken off the top for "required" material. The current situation creates the psychological feeling that most of the money is gone before any "decisions" have been made. If a basic package of "must have" programs and *Special Events* were funded before the voting began, voters would feel more freedom of action among remaining offerings. This arrangement would also allow PBS to seek partial underwriting, with a guarantee to potential funding agencies that a particular program would be available to all stations.

12. *All programs purchased by over 80 percent of the stations should be declared purchased by the entire system.* All stations would be fed such programs, to use or not use as they saw fit. The price of the programs would be absorbed by the entire system.

There are several reasons to consider this proposal: First, it would make scheduling for the interconnection easier, while also avoiding holes in schedules of nonpurchasing stations. Second, it would make possible the purchase of individual one-shot programs for use in a "special of the week" type of series. Planning for the current S.O.W. is difficult, since all stations get underwritten specials but the SPC purchases vary among the different stations. The current SPC procedures work against single programs and specials, and this change might help.

Third, there is reason to believe that actual costs to individual stations would not go up if all programs with more than 80 percent support were declared fully purchased.[16] Gross costs for all purchased programs do not go up in any case; the only issue is redistribution of costs to individual stations. It seems that if the 17 programs with more than 80 percent support in the first SPC year had been assigned to all stations, the lower price for already purchased programs would have balanced the added cost for previously unpurchased programs.[17] If stations did not want a program purchased under this 80 percent rule, they would not have to use it, and they would have spent no additional money.

Proposals 10, 11 and 12 together define a basic program package. (Even if outside funding—proposals 10 and 11—were not implemented, the 80 percent rule would probably produce the same basic set of programs, including "must haves" and *Special Events.*) If stations wanted so little material that they would be harmed by this package, (that is, they would have to pay more for the basic package than they would have paid for their specific selections), they could simply decline SPC membership and negotiate separately with PBS for the few programs they wanted. (Only two or three stations would be likely to fall into this group.) The 80 percent rule is essentially democratic and it is similar to many majority-rule situations (though the 80 percent is far more than a simple majority) in other types of purchasing cooperatives.

13. *A discretionary programming fund should be available for use by the PBS staff.* By decision of its boards and its Programming Committee, PBS should be able to complete funding of partially underwritten projects and purchase materials to balance the overall national schedule. This proposal would require the establishment of a PBS bank account and might imply the application of matching funds to PBS purchases. The partial returns from non-PTV income brought in by SPC programs might supply some money. Post-market purchases might supply more. However, the bulk of the funds will probably have to come from the federal appropriation, via CPB or stations returning CSG money, and from any remaining Ford Foundation grants.

One approach for fund raising would be to increase PBS membership dues; another would be to create a surcharge on SPC purchases; a third would be to arrange funding from the CSG pool before it is distributed. These ideas are unlikely to be supported; and, in fact, the possibility of finding money for a PBS programming fund is slim. Nevertheless, the addition of such discretionary power to the body that represents the stations would clearly be another step toward implementing a responsive programming system.

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[16] Consider a simplified example: Ten stations (WAAA, WBBB, WCCC, etc.) are choosing among ten programs (#1, #2, #3, etc.). Each program costs $16,000 to produce. Each station votes for eight programs. Each program gets eight votes (80 percent support). Under current SPC procedures, the stations selecting program #1 would each pay $2,000 ($16,000 ÷ 8) for #2, etc. Station WAAA may have chosen #1, #2, #3, #4, #5, #6, #7 and #8. The total bill would be $16,000. Station WHHH may have chosen #1, #3, #4, #5, #6, #8, #9 and #10. Its bill would also be $16,000. All ten programs would be produced; each of ten stations would pay $16,000; and each station could use eight programs. Under the 80 percent rule, all ten programs would be declared purchased for everyone. Each station would pay $1,600 per program ($16,000 ÷ 10). The total bill to each station would remain $16,000, but all stations might use all programs (but, of course, they would not have to do so).

[17] PBS is interested in a computer run to check this hypothesis, but the data could not be made available for this paper, since such a run would have required more time and effort than were available at that time.

A Fourth Network?

Many of the problems identified here were foreseen in Hartford Gunn's original article proposing station financing for national programs. Indeed, some of the suggested modifications come close to implementing Gunn's original plan. For example, the automatic purchase of "must have" programs and the 80 percent rule are quite similar to his "basic program service" providing subscribers with choices within a list developed by a consensus among member stations. None of my proposals need lead toward a centralized fourth network. Decisions are to be left in the hands of the stations and their designated representatives and employees. The basic model remains a representative grass-roots democracy.

However, within this democratic framework, it is necessary to establish better internal communications and a selection system that is more flexible and more responsive to the special demands of a medium which requires both long-range planning and rapid decisions. It would be asking too much if we were to require 152 decision makers to keep fully informed of the moment-to-moment changes or to spend the time and effort required for adequate long-range planning for a total national programming service. But such responsibility can fairly and easily be delegated by the stations (who would retain the ultimate authority and power) to their chosen representatives on the PBS boards and committees. Certainly, station representatives, and their designated staffs, would be in a position to consider and evaluate information and make decisions that truly reflected consensus at the local level.

For public television to fulfill its purpose, it must have both meaningful programming and people watching those programs. During the first five months of 1974, PBS provided 70 percent of all prime-time PTV hours, whereas local stations produced 14.3 percent of their prime-time offerings. These same proportions can be expected over the next five to ten years. The national service, then, is clearly the core of local service (especially when local stations can choose among nationally provided alternatives). This national service must be carefully planned to provide an optimal package of useful and high quality television programs. If member stations were to delegate some authority, PBS would provide itself with a responsive and efficient system of decision making. Such a system would also be responsive to local desires, open to innovation, protected from outside pressures, capable of responding quickly to unexpected events, able to provide for minority interests, aware of the need for a balanced schedule, and primarily concerned with improving the quality of public television programs.

PROGRAM RIGHTS IN PUBLIC BROADCASTING

EUGENE N. ALEINIKOFF

The United States is the only major country in the world in which commercial broadcasting preceded noncommercial broadcasting. And only American noncommercial broadcasting has gone through so many rapid and drastic changes in its recent evolution into today's national public television and radio systems. The result has been continuing difficulty in establishing and maintaining program rights policies which are peculiarly appropriate for public broadcasting.

Special Nature of Public Broadcasting

The important considerations of public broadcasting with respect to program rights and payments differ considerably from those of American commercial broadcasting. Commercial network broadcasts are expensively supported by national advertisers, with affiliated-station air-time charges far exceeding most program production costs. And as production costs themselves have escalated, network shows have gradually included larger numbers of annual reruns as integral elements of their series. Consequently, commercial program payment patterns have been developed mainly in terms of individual network runs, and sizable residual fees can generally be provided for each national rerun without undue strain.

To administer this complicated system, the three commercial networks have centralized business and legal personnel who concentrate primarily on property acquisitions, production contracts and rights agreements. Experienced staffs of labor experts have been assembled to negotiate with the many talent unions involved, and sizable music departments handle clearances with the various music agencies concerned.

Commercial station syndication arrangements similarly require periodic additional payments for program elements. For example, whether a syndicated program is originally produced for network broadcast or for station syndication, star talent often has either an ownership interest or profit participation, and the talent union rates generally provide for percentage rerun residuals up to an ultimate "buy-out" figure. Program syndication may also require additional music fees for film or videotape synchronization rights—synchronization fees otherwise waived for network broadcasts because of the large performance rights royalties paid annually by the three networks.

But from its beginnings, however, public broadcasting has had to deal with a far different set of circumstances. First, program funds are generally available only at the time of production, and air-time payments are absolutely prohibited for both interconnection agencies and local stations. Thus, residual fees can present considerable financing problems, whether the program is originally produced under an external grant or through public broadcasting's own funding.

Second, with public broadcasting's limited finances, expensive production can often be justified only by extensive use over a number of years. Public television stations rebroadcast almost all national programs at least once during the same week, not only to fill out sparse schedules but also to provide multiple-viewing opportunities to interested audiences. Original production arrangements must therefore provide for immediate and extended program uses far beyond commercial network practice.

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Third, unlike commercial broadcasting, public broadcasting production is not concentrated in the New York and Hollywood network centers. National public television and radio schedules include programs and segments from many different stations and nonprofit agencies across the country, and the number of such program sources can be expected to expand as more public stations attain production capability and more outside organizations seek interconnection participation. Each of these national producers is an independent entity, determining specific rights and payment standards subject only to general national system requirements and budgetary approval restrictions.

Fourth, there is question about the appropriate extent to which public broadcasting should pay copyright fees under the existing "not-for-profit" exemptions. Up to now, the national organizations have taken the lead in suggesting strongly that for standard nondramatic copyrighted music, performance fees need not be paid by station broadcasters nor synchronization rights cleared by station producers. On the other hand, in anticipation of long-expected copyright law changes, serious negotiations have been underway for some time toward national program-music payments, irrespective of the present exemption. It is still not clear, however, in what manner and in what amount, or by what public broadcasting organizations and to what copyrighted music agencies, these national payments may ultimately be made.

Finally, as a historical matter, noncommercial broadcasting began on the exact opposite side of the rights spectrum from the commercial live-network broadcast. Since educational radio and television programs were originally distributed solely through kinescope and videotape recordings circulated directly to limited-audience broadcasting stations, most producers sought and obtained unlimited duplication and broadcasting rights—without any program payments beyond those made, if at all, at the time of production. National Educational Television, the only national educational television distributor for many years, was the first to find this wide freedom increasingly impossible to attain economically in foreign purchases. With the establishment as well of prime production services in New York City and Los Angeles, NET also had to agree fairly early with the performers', musicians' and directors' unions to limit national rights substantially in terms of restricted use periods and incremental residual fees. When national interconnection arrived on the noncommercial scene, the consequent desire for more topical and higher quality programming shifted producer pressure even further away from the original broad formulae for noncommercial programming.

Nevertheless, the initial concept of a so-called "national release," which includes multiple rebroadcasts during the same week, has always been steadfastly maintained with but few unavoidable exceptions in connection with foreign programs. Further, the early established minimum national requirement of four releases over a period of three years has continued as standing practice for nontimely programs with but rare modification primarily for feature films and gift programs. Both of these policies have been officially adopted and consistently enforced by the Corporation for Public Broadcasting in national program financing and by the Public Broadcasting Service and National Public Radio in their national program distribution activities.

Current Considerations for Public Broadcasters. As a general matter, the "four-releases-in-three-years" minimum rule does not appear to have been unduly restrictive for public broadcasting so far. But music personalities have at times expressed special concern about overly long exposure of past performances. Some theatrical agents have been unwilling to make well-known literary or dramatic properties available for public television for any length of time that might interfere with lucrative feature-film sales. This reluctance is, of course, intensified by the unfortunate inability of public broadcasting to be financially competitive for "star" performers or "hot" properties. Undoubtedly the problem will be encountered even more frequently in the future as public broadcasting has ever wider audience exposure and develops greater funding capability.

Consequently, some key factual questions about public broadcasting program rights bear serious reexamination: Do public stations actually make a practice of rebroadcasting national programs more than once during the week? What series reruns can be expected over which stations during the same year and in subsequent years? Is there any difference between national interconnected release and local station transmission practices? Finally, there is the overall question of whether public television and public radio broadcasting schedules should be considered separately or together.

The conclusion may well be that by reason of changing public broadcast patterns, narrower broadcast rights can now be accepted without reducing actual exposure. Moreover, because of organizational progress, distribution restrictions may now be more easily controllable without administrative difficulties. If so, reasonable modification of the "four-releases-in-three-years" principle would clearly be far preferable to rights deterioration through proliferating exceptions—not only as an obvious generality, but also for at least two special reasons: first, to help in meeting probable pressure from talent unions to minimize initial rights in order to maximize subsequent residuals; and second, to compensate in some degree for the supplemental nonbroadcast educational availability that has become an absolute necessity rather than merely an ancillary benefit for national prime-time programming. In short, public broadcasting must be far more consistent and realistic than ever before about negotiating for the exact program rights, no more and no less, that are actually useful and financially feasible.

Specific problems for public broadcasting are also arising in the allied areas of broadcast exclusivity, program ownership and talent fees. Although encountered not infrequently in the course of national productions, these questions have too often been settled on an ad hoc basis in the past.

Broadcast Exclusivity. In addition to the understandable desire for program prestige, public broadcasting stations have considerable fear of viewer confusion and audience loss if the same series is carried both by them and by their more powerful and better advertised commercial brethren. Public broadcasting producers are also concerned that their creative efforts will seem less inventive if there are commercial versions of the same performances, scripts and other artistic elements. National public broadcasting organizations are extremely reluctant to permit themselves to be used merely as temporary showcases for commercial sales. For all of these reasons, national public broadcasting programs have customarily been required to be exclusively eligible for public broadcast—except, of course, in noncovered areas where complementary nonsponsored commercial station broadcasts may also be allowed.

Program exclusivity has never really been disputed by domestic or foreign suppliers. Domestic program agencies have long been accustomed to commercial television's exclusivity patterns. Foreign broadcasters are sufficiently intent upon their own domestic exclusivitiy to be respectfully sympathetic to similar public broadcasting interests in America.

Nevertheless, the exclusivity issue has been forcefully raised by such public television nonstation producers as the Children's Television Workshop (*Sesame Street, The Electric Company, Feeling Good,* etc.), Family Communications, Inc. (*Mister Rogers' Neighborhood*), and the U.S. Office of Education's ESEA-funded children's minority instructional series (*Villa Alegre* and *Carrascolendas, Gettin' Over*, and the EDC *Project ONE* mathematics series).

In all of these cases, there is great concern about maximizing the series' usefulness through supplemental commercial television exposure. This concern is especially felt with target audiences which cannot be reached satisfactorily by local public television stations. On the other hand, national public television distribution organizations must defend against local cut-rate commercial carriage, and are bound to seek protection for public television stations against unfair commercial television competition. Moreover, supplemental commercial television distribution raises several new policy questions: What limited public television exclusivity should continue to be applicable? What public broadcasting agency—the national distributor, the producer or some other organization—should be the primary commercial distributor? How should commercial distribution costs be met and/or commercial distribution profits be disposed of? With a wary eye toward FCC program-availability requirements and antitrust law implications, these issues may be in some process of tentative resolution by public broadcasting as a whole, but can be expected to continue still to be bothersome for some time to come.

Program Ownership. In the past, the leading national public broadcasting agencies have successfully resisted continued efforts on the part of commercial producers, talent managers, and rights owners to obtain property interests in public television series. By definition, public broadcasting programs are produced with public funds by nonprofit agencies for noncommercial transmission. To permit any kind of private ownership would seem to violate the basic principles of public broadcasting under federal and state law. Moreover, possible commercial use of even a portion of noncommercial programming must inevitably lead to far greater clearance difficulties and higher talent fees for all public broadcasting series, regardless of the production source. As a result, outside ownership, other than by recognized nonprofit institutions primarily working within the public broadcasting community, has almost without exception been conceded only where public television or radio rights have been acquired in already existing or independently produced program materials.

But this public broadcasting philosophy has been seriously questioned by the National Endowment for the Arts and by similar artist/producer-oriented foundations when making production grants for public broadcasting programs. In addition, the insistence of more and more prominent film makers on retaining primary ownership interests in their own productions and granting only American television rights to public broadcasting has tended to blur the once-clear line between internal production and external acquisition—especially when the public broadcasting rights payment approximates the entire original production cost. Finally, the lack of a definitive policy between the Public Broadcasting Service/National Public Radio and their producing stations as to control of and profit from post-broadcast sources, such as foreign broadcast, 16mm distribution, cable origination, and cassette home-sale, has contributed to public broadcasting's increasing weakness in defending against outside demands for actual program ownership beyond mere profit participation.

It is clearly time that policy guidelines on program ownership, both within and without the public broadcasting community, be developed and articulated. Program ownership is too important to be left to individual station determination because of system neglect.

Talent Fees. Talent compensation has generally been a matter for decision by program producers, subject only to perfunctory administrative review and sporadically suggested ceilings. While pricing information on dramatic properties and feature films has been informally exchanged among the more experienced producing stations, no real standards have been developed in public broadcasting beyond current union scales and past payment precedents. Accordingly, new producing stations often have great difficulty in determining exactly what fee payments are appropriate for national services.

Perhaps more important, high talent and property fees paid on a single project soon become standard for all similar series. Union increases granted by one or more principal producers naturally tend to spread rather rapidly to other production agencies. Similarly, voluntary copyright payments by some may result in involuntary waiver of copyright exemptions by all.

Maintaining reasonable fees becomes even more difficult when expensive series are underwritten by substantial foundation or corporate grants, so that there is no question about abundant financial means. The producer is invariably unwilling to risk loss of important program elements by refusing requested program fees. Nor can any national funding or programming agency hope to police producer payment practices unilaterally. It would not only be impolitic and contrary to the democratic spirit of public broadcasting, it would also be outright impractical in the face of the many different production services engaged in national, regional, state and even local activities.

In short, public broadcasting's future maintenance of its past favorable payments patterns is extremely problematical. The early advent of substantial long-term federal funds cannot help but give strong impetus to growing demands for higher fees, residual payments, profit participations, etc. This impetus has already been activated by the well-publicized million-dollar program grants from government agencies, such as the National Endowment for Arts and Humanities, the Office of Education and the National Science Foundation; from such major commercial companies as Mobil, Xerox and IBM; and from well-known nonprofit foundations, such as Ford, Carnegie and Rockefeller. At the same time, producer rivalry for established talent and greater emphasis on production professionalism has made resistance all the more difficult.

If imposed control is an understandable anathema in American public broadcasting, however, voluntary coordination should not be. It does not seem improper or impossible for the public broadcasters, together with other expert agencies, to arrive at system-wide guidelines for property and clearance fees without violating the antitrust laws. They can certainly begin to negotiate jointly with talent unions (as the three commercial networks now do) in order to make the resulting national scales automatically available across the country. And it is past time for public broadcasters as a group to reach basic financial arrangements with the music and other copyright industries under the existing or future copyright laws.

Immediate Public Broadcasting Needs

There are two related areas—copyright revision and union negotiations—in which it is especially critical that public broadcasting immediately act in a truly coordinated fashion.

Copyright Revision. The copyright revision bill passed by the House in 1967 and by the Senate in 1975 contained no provision for noncommercial broadcasting other than a limited instructional television exemption. At public broadcasting's urging, a formal amendment has been introduced to accord to public broadcasting the same kind of "compulsory license" privilege that the revision bill already includes for cable systems, phonograph records, and even jukeboxes. At this writing, the amendment is in the middle of both Senate and House Committee consideration along with other proposed changes in the revision bills introduced in 1975.

While copyright revision has been in the works for some time, it is more important than ever that the public broadcasting community mobilize its resources anew in this rather esoteric field. A new task force, with expert professional strength and adequate back-resources, is urgently required to begin legislative preparation and system mobilization for what will probably be decisive legislative action. Otherwise, public broadcasting could irretrievably forsake clearance assistance under the new copyright law.

Union negotiations. The major producing stations have historically insisted upon handling their own talent-union bargaining separately and locally. The only exception has been the American Federation of Musicians negotiation, in which a few leading producers have been willing to act as a semi-committee to reach national program arrangements, which then have gone into effect for the whole country. No such concerted action has, however, been taken with respect to the other broadcasting talent unions, in spite of the tendency of major stations' arrangements to spread to other program producers. And yet the negotiations are becoming of immediate importance to all of the television and radio producer stations now active across the country.

It is to be hoped that the public broadcasting community will itself be more willing in the future to recognize the clear advantages in cohesive national negotiation of talent union agreements. If so, a qualified group of station representatives, together with interested national organizations, can and should be established immediately to evaluate past contracts and consider impending negotiations on an industry-wide basis. This, at least, is one instance in which commercial television network practice can be a useful precedent for public broadcasting.

REPORT ON THE THIRD ASPEN INSTITUTE CONFERENCE ON PUBLIC TELEVISION

JANUARY 9-11, 1975

> Programming is a lot of things: It's creativity; it's the stimulation of new, creative people; it's encouragement for people who have never been creative but who have it in them to become creative. . . . The priority today has to be programming; it's high time we got to it.
>
> —Robert Benjamin
> Chairman of the Board
> Corporation for Public Broadcasting

On January 9-11, 1975, the Aspen Program on Communications and Society convened its third annual Conference on Public Television at Endicott House in Dedham, Massachusetts. Its purpose was to bring together participants of varying perspectives to consider the future of public television away from the adversary atmosphere of Washington. Past conferences had been devoted to issues of financing and organizational structure to achieve independence and viability for the system. The third conference focused on problems of programming—how to nurture creativity for the system.

The participants in the Aspen Program Conference (see list) included representatives from the Corporation for Public Broadcasting (CPB), the Public Broadcasting Service (PBS), station managers, program producers, philanthropic foundations, communications lawyers, and officials from the Executive Branch and the Congress. They were asked to put emphasis on "yesable" propositions, on concrete proposals for dealing with specific problems. No attempt was made to poll the participants on various recommendations. Nor were participants asked to approve or disapprove this summary of the discussions. Attention was naturally devoted to problem areas during the conference, but the discussions also reflected a growing sense of progress and accomplishment in public broadcasting.

Among the background papers distributed to the conference participants in advance were the following:

Programming: The Illusory Priority—Richard Moore, producer and former General Manager, KQED-TV, San Francisco.

Public Television's Station Program Cooperative: An Analysis of the First Year's Experience—Natan Katzman, Director CPB/NCES Programming Project.

Program Rights in Public Broadcasting—Eugene N. Aleinikoff, communications attorney.

A Crisis of Identity: What Is Public Broadcasting?—Anne W. Branscomb, communications attorney.

Conference Summary: The Twelve Principal Topics of Discussion

I. The Most Urgent Tasks for Public Television

There was general consensus that in 1975 public television faces three urgent tasks:

1. To enact during the 1975 session of Congress the long-range financing legislation at the funding levels proposed by the Corporation for Public Broadcasting.

2. To create a program development fund which will be insulated from political and bureaucratic pressures.
3. To develop and refine the Station Program Cooperative.

II. Programming

Richard Moore's paper set the theme that programming always tends to rank last in public television's order of priorities. It was generally agreed that now is the time for the system to take initiatives to reverse this order. Throughout the conference, the participants probed the conditions that encourage creativity. One producer suggested that this really means the care and development of talented people, which will require: (1) sufficient and predictable sources of funds; (2) an organizational environment which provides a healthy balance between freedom and discipline; (3) incentives for the artist. Creativity in programming, it was pointed out, does not necessarily mean large monetary rewards; it does mean, however, a "climate," an "atmosphere" to which an artist feels attracted and in which he finds personal satisfaction.

One participant argued that during the long fight for institutional survival, limited funds have been dispensed simply to perpetuate the system. Therefore, the attitude has become ingrained that "the system is more important than individuals." To counteract this, programming authority should be independent and insulated from bureaucratic cautiousness. Producers should have access without necessarily going through individual station management. Other participants agreed that the mechanisms for funding and development of new program projects need improvement, but not by establishing still another organization in a system already overly organized. Instead, CPB should create an inviolate fund to be used exclusively for program development. Decisions on new programs would thereby be simplified and would not require review by multi-layered committees. Providing seed money for promising proposals might be handled by a revolving fund. Successful programs would eventually re-pay to this fund the initial investment in planning, scripting and piloting.

Addressing the public television leadership, one young producer complained, "You don't have a door." He voiced a frustration built up during his attempts to promote an idea for a new program series. There are in fact many doors, another participant countered, but there is no "road map" to those doors. The task for public television is to insure that entrance procedures are clear and widely known.

Finally, it was argued that while the quality of public television's programming has risen dramatically, a more sophisticated approach to program promotion, marketing and distribution has lagged far behind. Conferees pointed out that commercial television and movie producers spend large sums on selling their product. The time has come for public television to recognize this aspect of programming and to plan for it in the budgeting stage. A suggestion made at the conference was that CPB and PBS create a unit solely responsible for marketing and distribution.

III. Program Objectives

A repeated theme during the conference was that if programming decisions are not to be made in a vacuum, public television must develop objectives to measure the success or failure of a program. Such decisions must be made at many points: Once the planning stage for a program is completed, there is the basic "go/no-go" decision. Later, after a year or two, comes another decision on whether to continue a program series. Deciding when the time has come to kill a program has proved to be one of the most difficult problems in public television.

Unlike commercial television, which simply measures success in terms of audience size and demographic composition, public television has no clear criteria for determining success. The conference participants agreed that attracting the largest possible number of viewers should not become the sole objective. However, they considered it important that some determinants of success, both qualitative and quantitative, be systematically developed. One participant suggested that in the future, every new program proposal be required to include a statement of objectives.

The temporary withdrawal of *Feeling Good,* the Children's Television Workshop's health series, had just been announced at the time of the Aspen Conference, and the implications of that decision were discussed. The primary reason for cancellation was that the series was not meeting the objectives set for it by CTW. Most important was its failure to attract enough of the program's target audience of 18- to 35-year-olds. According to Lloyd Morrisett, chairman of the CTW board, "We had to do in public television what *Medical Center* or *Ben Casey* was doing in commercial television. . . . I'm still confident that with effective production and the right amount of creativity it's possible to do it. We haven't done it yet, and that's why we decided to go back to the drawing board."

Mr. Morrisett also suggested that the problems of *Feeling Good* did not represent a failure of the "CTW model" (which succeeded so well in producing *Sesame Street* and *The Electric Company*), but rather a failure to apply the model properly. Unlike the earlier programs, a single team of researchers and creative producers did not see the program through from inception to broadcast. Nor did the producers follow the dictates of the model by using research results on viewer response to pilot films. Another participant noted that the Workshop should be commended for its willingness to recognize its problems and make the difficult decision to withdraw its own program.

IV. The Station Program Cooperative

The Aspen Conference participants examined the first year's experience of the Station Program Cooperative (SPC-I), a unique system in which the individual stations bid and pay for programs to be distributed by PBS. This year, SPC-financed programs account for nearly 50 percent of the total prime-time hours and 30 percent of the prime-time funding of public television.

One criticism expressed at the conference was that SPC-I funded only existing or slightly repackaged programs. It had functioned primarily as a refunding mechanism rather than a program innovator. As one participant stated, "The system is weighted in favor of the status quo." Other conference participants argued that SPC-I successfully accomplished its limited objectives: (1) to give stations responsibility to choose their own programs; (2) to preserve certain programs and to discard others; (3) to insulate public television from political and other pressures.

The consensus of the discussion was that both SPC-I and SPC-II, now in progress, must be considered experimental. The miracle is that this computerized marketplace has worked at all. Nonetheless, participants urged caution that the cooperative not be allowed to become a means for distributing only the tried, the true, and the most low priced programs. The system needs a way to encourage experiment and innovation. There was debate whether the marketplace cooperative should be weighted in favor of innovation or whether stations should rely on separate program development funds outside SPC. But there was clear agreement that the SPC should find ways to permit better communication among the stations during the bidding process, to provide better descriptions of program offerings, and perhaps to offer evaluations of lesser known programs. Planning should get underway immediately to make SPC-III, for the 1976 season, an improvement over the first two years.

V. Long-Range Financing

Since the passage of the Public Broadcasting Act in 1967, public television has received merely one-year and, most recently, two-year authorizations for federal funding. The present two-year authorization expires this June. Long-range financing, which would help to insulate public television from the political process, has been an elusive dream. Finally, this year, the White House recommended and Congress is now considering a five-year authorization and appropriation bill. The Aspen conferees agreed that the next six months will provide the crucial test of whether public television can achieve long-range financing to bring stability to the system. If the legislation fails this year, one participant warned, the dream may be postponed indefinitely.

Attainment of long-range financing, however, will not solve all of the financial problems. Public television faces acute pressures resulting from inflation, growth of the system, and the phasing out of Ford Foundation support. Board members of CPB (as well as PBS, National Public Radio, and the Association of Public Radio Stations) have all publicly urged a higher level of funding than the figures proposed by the White House.

The levels of federal support requested by CPB and those proposed by the Office of Telecommunications Policy may be compared:

	CPB Requested	OTP Proposed
FY 1976	88 Million	70 Million
FY 1977	103 "	80 "
FY 1978	121 "	90 "
FY 1979	140 "	95 "
FY 1980	160 "	100 "

Participants agreed that the higher funding levels are essential to maintain incentives for raising increased matching funds on the local level—a provision built into the federal formula. Even at the higher levels, the system will still have to operate on substantially less than was recommended by the CPB Long-Range Financing Report. More than one conferee stressed that Congress should be urged not to compromise on budget levels.

VI. Insulation from Government

Even with long-range financing, it was pointed out, there is a creeping danger of interference by a number of federal agencies (e.g., the Law Enforcement Assistance Administration) contracting directly with public television stations to produce programs for national distribution. While the contracts may contain provisions for "no editorial control" by the government agency, nonetheless the potential for abuse is there.

Several propositions were advanced during the Aspen Conference to deal with this issue: (1) CPB and PBS should work out a standard contract and voluntary guidelines for stations dealing with government agencies; (2) the Office of Telecommunications Policy should review and work out a government-wide policy; (3) Congress should forbid government agencies from funding public television programs directly; instead, all federal funds for production should be channeled through CPB.

The conference participants agreed that this represents a delicate issue. *Sesame Street,* for example, would not have been developed without generous HEW support. Public television will have to move skillfully to maintain its independence without unnecessarily slamming the door on badly needed program support.

VII. Corporate Underwriting

Public television has gained growing support through subsidy of programs by private corporations. Many excellent programs, such as *Masterpiece Theatre,* have been funded and promoted in this way. While the benefits of such underwriting to an impoverished system are obvious, there are also threats. The mere appearance of corporate names, particularly with public affairs programs, may cause public skepticism about the integrity of the system. As one participant said, "There are certain chemistries that don't mix." Corporate-sponsored advertising in newspapers and on commercial TV for public television programs may be reaching the outer limits of what is healthy for a noncommercial service. The Aspen conferees agreed that it is incumbent upon CPB and PBS to set forth clear guidelines for corporate underwriting.

VIII. Program Rights

How does a system which is so diverse in production centers develop a set of standards for negotiating with talent and labor unions? Traditionally, this has been done on an ad hoc basis at the local station level. However, public television is reaching a stage of growth when voluntary guidelines to negotiate program rights may be required in order to avoid both escalating costs and restrictions on program use. Conference participants with production experience argued that contracts should be generous in granting residual benefits to the talent in exchange for the right to extended broadcast usage. Public television must encourage repeated viewing of its best programs, unlike commercial television which sharply curtails such repetition.

IX. Copyright

Public television has historically benefited from "not for profit" exemptions in the present Copyright Law, which was enacted in 1909. However, these were almost lost in amendments considered by the Senate last year. The Aspen conferees argued that as the revised Copyright Law moves to final passage (likely in the present Congress), there must be a more watchful effort to make sure that public television's interests are fully and fairly treated.

X. Ascertainment

One conference participant described the "ideal cycle of programming" as: (1) ascertainment of community needs; (2) conceptualization of programs to meet those needs; (3) production; (4) evaluation. He noted that public television has rarely managed to carry out this cycle in its program development. Whereas commercial stations are required under FCC regulation to go through an extensive ascertainment procedure before each license renewal, noncommercial stations have been spared this requirement in the past. However, the FCC may now be preparing to require public television stations to ascertain problems and issues in their communities. A few stations have already taken initiatives.

The Aspen conferees expressed the view that this should be a welcome endeavor. However, instead of the costly, voluminous and often unread surveys conducted by commercial stations, public television should seek to develop a meaningful dialogue with its many constituents, real and potential. On-the-air public forums could be one effective way of ascertaining community problems and needs.

XI. Coverage of Congress

A joint House-Senate committee has recommended that Congress undertake a one-year, limited experiment with audio and video coverage of its plenary sessions. There have been indications that public television may be asked to contract for gavel-to-gavel video recording. This, it was argued by some Aspen conferees, represents an opportunity that public television should be happy to accept. The video record would be made available to commercial and noncommercial broadcasters alike. At the same time, there should be clear distinction between a contractual arrangement for video recording and public television's independent decision on broadcast use. Public television would undoubtedly wish to provide extensive airing of debates and legislative roundups, but the decision of what and how much to broadcast must be retained by PBS and local stations.

XII. Efficiency in the National System

One final area of conference concern about the structure of public television was the continued growth of the bureaucracies at CPB and PBS. Several participants pointed out that American public television is committed to a policy of decentralization. Although a single national agency (like the BBC) might be economically more efficient, it would be politically unacceptable. However, if more than 20 percent of public television funds are spent on administrative costs, Congress is likely to start raising questions. The conference participants urged a review of functions of both CPB and PBS to eliminate unnecessary duplication. (A joint committee has already been established to study budget priorities.) The conferees also suggested that if the system is to work smoothly, there must also be a clearer definition of the roles of each agency.

> What we end up with in the homes of this country is all that really matters. Structure, funding, everything else should lead to that one result. In my opinion, those of us who have had the responsibility to provide the mechanism for encouraging experienced creators, rising creators, and totally unknown creators to come to us have failed, except for minor, spotty results. . . . We've got to have some type of organization that cuts across all of the organizations to which people can come, submit their proposals, and get a quick answer. We should strive to have two or three major new program entries every fall season. If public broadcasting is going to continue to thrive, I think it is absolutely essential that we find a way to establish a staff with a separate program investment fund and hold that group answerable for the incubation of newness.
>
> —Thomas Moore
> Board of Directors
> Corporation for Public Broadcasting

The Third Aspen Conference on Public Television

Endicott House, Dedham, Massachusetts–January 9-11, 1975

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